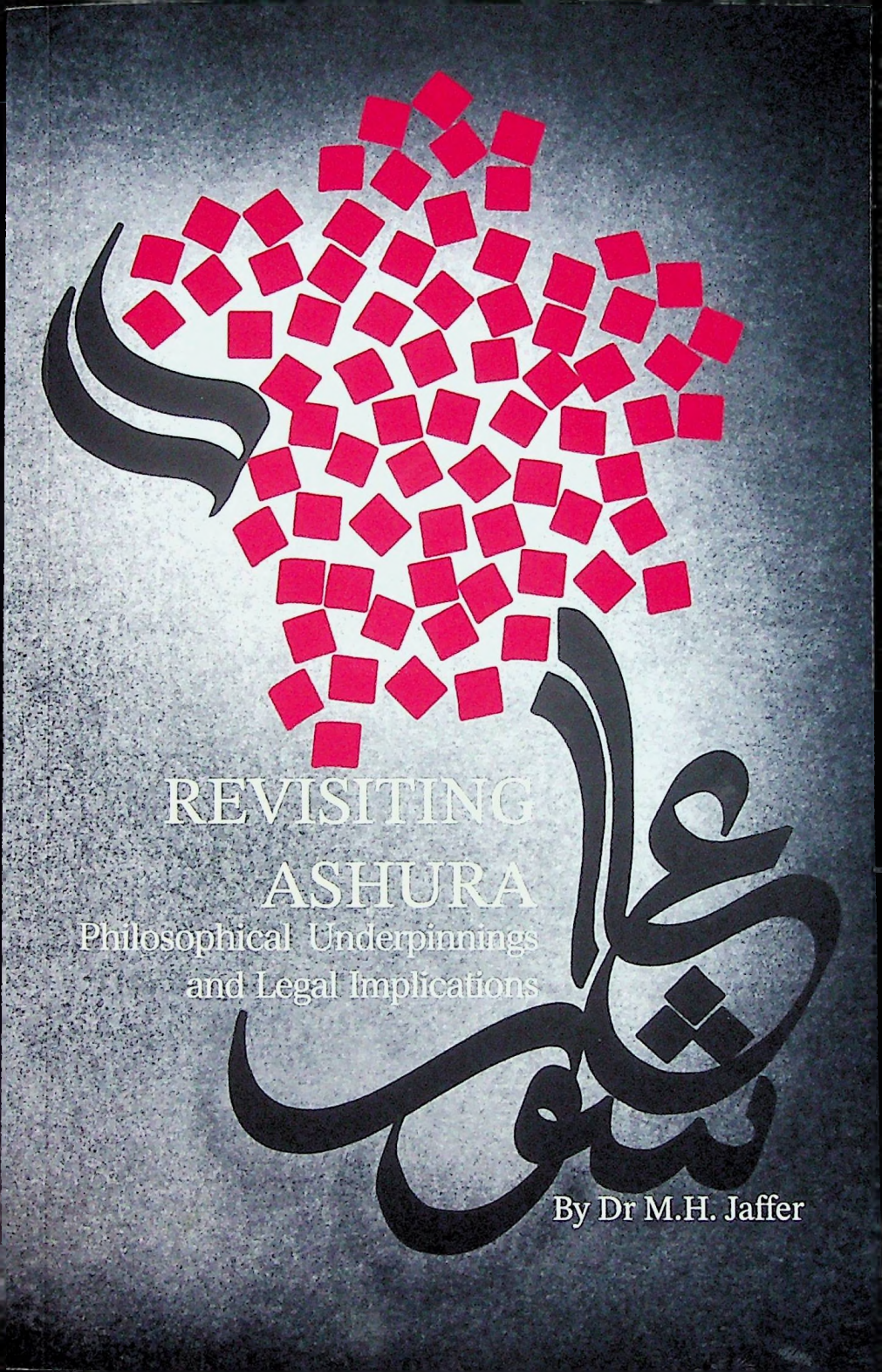
REVISITING
ASHURA
Philosophical Underpinnings
and Legal Implications
By Dr M.H. Jaffer

The tragedy of Karbala is arguably one of the most recounted, analyzed, and appraised events in human history. Whether it be in the domain of Islamic history, theology, sociology, literature, or art, the movement of 'Ashura' as led by 'Sayyid al-Shuhada' (a) has rightfully imparted an unmistakable and everlasting impression on humankind. Among Shia Muslims, Imam al-Husayn (a) is an infallible paragon whose words and actions are religiously probative. Within this religious paradigm, the question of whether any jurisprudential implications can be derived from the tragedy of Karbala naturally imposes itself. While some Shia scholars have sought to mystify or deintellectualize the objectives of Imam al-Husayn's (a) movement, others have rationalized them and sought to reconcile them within an Islamic legal corpus. This book is unique in presenting these discussions for the first time in the English language with reference to original Arabic and Persian sources. We hope this humble work shall allow the reader to better appreciate the profound impact of Imam al-Husayn's (a) revolution upon the Shia intellectual history.

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ENRICHING THE SOUL

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Revisiting Ashura

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Malukben Binte Noorbhai Umatia
Shamimben Binte Hasanali Palasara

Contents

Introduction 7

1. How Does One Interpret Imam al-Ḥusayn's (a) Stance? 13
2. Those Who Believe No Jurisprudential Implications Can Be Derived from Imam al-Ḥusayn's (a) Movement 23
3. Those Who Believe Imam al-Ḥusayn's (a) Movement Has Jurisprudential Implications 37
4. The Jurisprudential Discussions Surrounding 'Āshūrā' 55
5. The Violated Sanctities of 'Āshūrā' and their Jurisprudential Significance 91

INTRODUCTION

بِسْمِ اللَّهِ الرَّحْمَٰنِ الرَّحِيمِ

In the name of God, the Most Kind, the Ever Merciful

السلام على الحسين وعلى علي بن الحسين وعلى أولاد الحسين وعلى أصحاب الحسين

May peace be upon al-Ḥusayn, and upon ʿAlī ibn al-Ḥusayn (a), and upon the children of al-Ḥusayn, and upon the companions of al-Ḥusayn!

تقحّمت صدري وريب الشكوك	*You charged my heart while doubts resounded*
يضجّ بجدرانه الأربع	*And off every wall of my bosom pounded—*
إلى أن أقمت عليه الدليل	*Until with proof I had set to sate it*
من مبدأ بدم مشبع	*On the premise of blood, so saturated—*
فأسلم طوعا اليك القياد	*It relented to you, in full submission*
وأعطاك إذعانه المهطع	*And granted to you its humble admission:*

فنوّرت ما اظلمّ من فكرتي	*That gloom beset in my mind—you enlightened!*
وقوّمت ما اعوجّ من أضلعي	*And what was astray in my heart—you rightened!*
وآمنت إيمان من لا يرى	*Such I embraced this faith with the force*
سوى العقل في الشّكّ من مرجع	*Of one who quells doubt with a rational source:*
بأنّ الإباء ووحي السّماء	*That such honor pristine and divine revelation*
وفيض النبوّة من منبع	*And splendor prophetic are one emanation*
تجمّع في جوهر خالص	*Gathered—so pure—in a single essence*
تنزّه عن عرض المطمع	*From traits of greed: in full transcendence![1]*

The tragedy of Imam al-Ḥusayn (a) is one of the few that has been immortalized in the pages of history and remains commemorated by millions of people throughout the world. Both adherents and non-adherents alike continue to pay homage annually to that incredible sacrifice al-Ḥusayn (a) and his companions made on the plains of Karbala in firmly standing against Yazīd, the tyrant of their time. Rightfully so, the exemplary stance that this cadre took in revolting against oppression has served as an inspiration to many political movements throughout history: from its immediate aftermath

1 An excerpt from a famous eulogy dedicated to Imam al-Ḥusayn (a) that was penned by the illustrious Iraqi poet Muḥammad Mahdī al-Jawāhirī (1899-1997)—may God have mercy on him. The full poem with commentary can be found here: https://iqraonline.net/the-eulogy-immortalized-in-golden-ink-at-the-gate-of-imam-husayn-as/

with the uprising of al-Mukhtār al-Thaqafī's pro-Alid revolution and reverberating into contemporary times.[2]

The prerogative to derive inspiration from al-Ḥusayn's (a) example is rendered even more poignant within the Shia Muslim paradigm, which regards him as an infallible and unassailable paragon whose actions and words hold evidentiary significance for deriving religious law (*al-fiqh*). Therefore, the question of how Shia scholars have contextualized the movement of al-Ḥusayn (a) in deriving and reconciling their religious edicts naturally imposes itself. More specifically, the question arises as to what extent Shia jurists interpreted the revolution of Imam al-Ḥusayn (a) as bearing an evidentiary significance in Islamic jurisprudence.

As an English-speaking Shia Muslim, I have found that there is a dearth of discussion regarding this particularly unique topic within the English language. Naturally, since most of such higher-level jurisprudential discussions are confined to the Arabic and Persian languages, this lacuna has remained relatively untouched. This book therefore emerges as a humble attempt to assemble some of the intellectual history surrounding this delicate issue from Arabic and Persian sources into a cogent English narrative. Owing to the dictates of brevity, I elected as much as possible to refrain from engaging in detailed analysis, rather opting to allow the cited scholars to speak for themselves. Furthermore, I have aimed to present original Arabic and Persian excerpts alongside an idiomatic English translation; in this increasingly digital age, this choice was deliberate to facilitate the task for researchers to quickly find these quotations in their original sources.

In clarifying what this book is, it is appropriate to also elaborate what this book is not. We do not aim to treat the jurisprudential

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2 Most recently, a prominent leader of the Palestinian resistance group Hamas referenced the struggle of Imam al-Ḥusayn (a) as a precedent to his group's struggle against the Israeli occupation: https://www.cnn.com/2024/06/11/middleeast/sinwar-hamas-israel-ceasefire-hostage-talks-intl/index.html

issues that pertain to the commemorative and mourning aspects of Karbala (*al-sha'ā'ir al-ḥusayniyyah*). Therefore, issues such as self-flagellation (*al-taṭbīr*), pictorial representations of 'Āshūrā' (*al-tamthīl*), donning black clothing (*libs al-sawād*), the permissibility of visiting gravesites (*al-ziyārah*), seeking assistance from the martyrs (*al-istighāthah*), the religious sanctity of clay from al-Ḥusayn's grave (*al-turbah*), etc. are beyond the scope of this book and should instead be found in the writings of contemporary Shia religious authorities (*al-marāji'*). We also do not claim to present any exhaustive analysis and critique of various jurisprudential viewpoints; rather, we have chosen to adopt a narrative style in surveying the opinions of a wide range of Muslim scholars without providing any critique, excepting some select footnotes.

Originally, the contents of this book were presented as several articles published on the blog site of my colleague and friend, Sayyid Ali Imran. This current format as a book in the hands of the dear reader emerged only through the consistent encouragement and dedication of Shaykh Azhar Nasser and his team, may God reward them generously. As such, this edition has been extensively reviewed and edited, and a new chapter regarding the violated sanctimonies of 'Āshūrā' has also been penned.

First and foremost, I would like to dedicate this humble work to the Master of the Martyrs, Imam al-Ḥusayn (a), and those valiant martyrs that sacrificed themselves in his presence. After expressing my gratitude to God Almighty, I would be amiss if I did not thank my gracious family, particularly my mother Latifa and my wife Fatemah, for tolerating me as I spent long hours researching these topics. I would like to thank some brothers for reviewing various portions of this work, including Sayyid Burair Abbas, Sayyid Muhsin Kashmiri, Sayyid Ali Imran, and brother Abu Dujana. Finally, I extend my highest appreciation to Shaykh Azhar Nasser and his team at Tasneem Institute, who have remained steadfast in their dedication towards publishing this project in the physical copy that lies before you.

وَمَا تَوْفِيقِي إِلَّا بِاللَّهِ عَلَيْهِ تَوَكَّلْتُ وَإِلَيْهِ أُنِيبُ

And my success is through none except God, upon Him I rely and to Him I turn penitently. (Qur'an, 11:88)

Dr M. H. Jaffer

6 June 2024

9 Dhū al-Ḥijjah 1445 AH

CHAPTER ONE:
HOW DOES ONE INTERPRET IMAM AL-ḤUSAYN'S (A) STANCE?[3]

Despite the relatively short span of time in which its events transpired, the fateful tragedy of Karbala is arguably one of the most recounted, analyzed, and appraised events in human history. Whether it be in the domain of Islamic history, theology, sociology, literature, or art, the movement of 'Āshūrā' as led by Sayyid al-Shuhadā' (a) has rightfully imparted an unmistakable and everlasting impression. A testament to the immortalization of this tragedy in the Muslim psyche is that Imam al-Ḥusayn (a) is one of the few influential personalities

3 We have compiled this discussion based on several Arabic and Persian sources, which we list here in order of importance for advanced readers to review:
1. *Nigāh beh 'Āshūrā' dar Fiqh-e Shī'ah*, by Rasūl Ja'fariyān (https://tinyurl.com/y8vl62d7).
2. *'Āshūrā' dar Fiqh*, by Sayyid Ḍiyā' Murtaḍawī (https://tinyurl.com/4skh8bma).
3. *Al-Ḥarakah al-Ḥusayniyyah wa al-Ta'ṣīl al-Fiqhī li-Sharʿiyyat al-Thawrah*, by Dr Ḥaidar Ḥobbollāh (https://tinyurl.com/26h8mc4m).
4. *Naẓrat al-Fiqh ilā Ḥādithat 'Āshūrā'*, by Dr Mohammad Soroush Maḥallātī (https://tinyurl.com/ys97bbcc).
5. *Fiqh 'Āshūrā'*, by al-Sayyid Muṣṭafā al-Ḥusayniyān (https://tinyurl.com/bddvyw48).

in Islamic history whose date of martyrdom is undisputed.[4] Nonetheless, there has been heretofore a dearth of literature regarding the jurisprudential implications of 'Āshūrā' in the English language.[5] In this book, some of the questions we will aim to explore are as follows: 1. To what extent is it possible to derive any jurisprudential conclusions from the movement of Imam al-Ḥusayn (a)? 2. Was the uprising of Imam al-Ḥusayn (a) obligatory (*wājib*) or recommended (*mustaḥabb*)? 3. How has the discussion regarding 'Āshūrā' been contextualized by those who believe it has jurisprudential (*fiqhī*) implications?

Of course, the answer to these questions is heavily predicated upon one's belief regarding the underlying objectives of Imam al-Ḥusayn's (a) uprising against Yazīd (la), and we will frame our discussion around this axis. We will endeavor to present the views on these questions with reference to the writings of primarily Shia Imāmī scholars, although we will quote Sunni scholars in the discussion as well. Out of fear that we may render the discussion too unwieldy or protracted, we will confine ourselves to simply presenting and describing the existing viewpoints without discussing evidence and critique. Despite trying to be as inclusive as possible, we do not make the claim that our presentation here is exhaustive, and advanced readers are highly recommended to consult the Arabic and Persian sources we reference in our footnotes for further discussion.

The Intense Multiplicity of Interpretations Regarding 'Āshūrā'

When one examines the available literature about Karbala, what is immediately apparent is the intense variety of viewpoints and appraisals of its analysts. It appears that this heterogeneity is a product of several important factors:

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4 In contrast, even the date of the Prophet's (s) demise is disputed. Shia sources say it occurred on 28 Ṣafar 11 AH, while Sunni sources say it occurred on 12 Rabī' al-Awwal 11 AH.

5 This is of course excepting a great discussion by Sayyid Ali Imran that has previously been published on IqraOnline here: https://iqraonline.net/reflections-shahadah-and-halakah/

A. Imam al-Ḥusayn's (a) Unique Stance and Personality

Among both the Sunni and Shia, Imam al-Ḥusayn (a) is one of the most highly revered personalities in Islamic history. As the grandson of the Holy Prophet (s), Imam al-Ḥusayn's (a) actions carry a certain weight and authority, and clarifying one's position regarding his uprising therefore becomes imperative. The significance of his persona has hence ushered in a milieu for scholars to opine and speculate with regard to the reasons underlying his uprising. The impetus to explain why Imam al-Ḥusayn (a) did what he did becomes even more palpable when one appreciates that his defiant stance against Umayyad tyranny differed quite drastically from that of the Companions (*ṣaḥābah*) and many of the Followers (*tābi'īn*) (from the Sunni perspective), and the other Imams of Ahl al-Bayt (a) (from the Imāmī Shia perspective), and even from what his brother Imam al-Ḥasan (a) had done in establishing a truce with Mu'āwiyah.[6]

Within a Shia perspective, there is a well-known adage within *uṣūl al-fiqh* that "the words, actions, and affirmations of an infallible are probative," and thus at least from the theoretical perspective, Imam al-Ḥusayn's (a) actions should be capable of being subject to analysis to extract legal precepts. However, there are nonetheless specific rules that govern one's ability to extract jurisprudential conclusions from the actions of an infallible, which has fraught the discussion with a certain level of complexity:

6 There are certain narrations even within our hadith corpus that describe that Imam al-Ḥusayn (a) was in disagreement with the truce that Imam al-Ḥasan (a) enacted; depending on their ideological stance, Shia scholars have taken different positions regarding these narrations, with some believing they are fabrications, and others using them to cast aspersions on the claim that every Imam of the Ahl al-Bayt had the same disposition, and only their historical circumstances differed. A scholar who has recently discussed this is Dr Mohammad Soroush Maḥallātī in a lecture titled "*Sīreh-ye Pazhūhī dar Tangnāye Mabānī-ye Kalāmī wa Qawā'id-e Fiqhī*" presented at Faheem Institute. The link to the lecture can be found here: https://tinyurl.com/4zkeddec

i. One must demonstrate that the action of the infallible did not occur under the auspices of dissimulation (*taqiyyah*) due to sociopolitical or religious pressure. While this criterion is not specifically salient for 'Āshūrā', it can be evoked for other aspects of Imam al-Ḥusayn's (a) life. For instance, Imam al-Ḥusayn (a) tolerating the peace treaty enacted with Mu'āwiyah despite its being violated for nearly ten years after the demise of Imam al-Ḥasan (a) deserves scrutiny: was this due to dissimulation or not?

ii. One must show that the action in question was not specific to the infallible (such as the Holy Prophet's (s) obligation to pray *ṣalāt al-layl*). Therefore, for instance, if one believes that the events of 'Āshūrā' were obligated upon the Imam as an extension of the duties of his Imamate, this is a major impediment to being able to generalize the Ḥusaynī revolution.

iii. One must be able to show that the action was not the result of an exceptionally unique political or historical circumstance (*qaḍiyyah fī wāqi'ah*). Therefore, for instance, if one believes that Imam al-Ḥusayn (a) was forced to rise because Islam was still in its nascency and its collapse was imminent under Yazīd's reign, then it again becomes difficult to extrapolate his actions into a modern context where Islam is already a major world religion.[7]

B. The Diversity of Historiographical Material Regarding Karbala

The nature of the source material documenting the events of Karbala is extremely varied both in chronology and its genre. We have literature that spans from the early second century to the present day, which can be roughly divided into the following categories:

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7 These points have been discussed by 'Allāmah Ḥillī in his *Mabādī al-Wuṣūl*, p. 173.

i. Primary sources: These consist of very early, orally transmitted reports collected by historical traditionists narrating the event of Karbala, many times by eyewitness testimony or individuals removed from the tragedy by a few generations. Books that specifically fall within this category are from the second and third centuries and are *musnad* (with chains of transmission); these include *Ansāb al-Ashrāf* by al-Balādhurī, *al-Ṭabaqāt al-Kubrā* by Ibn Sa'd, and *Maqtal Abū Mikhnaf*.[8] Unfortunately, a great deal of this early literature is no longer extant, such as the *maqātil* of Aṣbagh ibn Nubātah, 'Ammār al-Duhnī, and Jābir ibn Yazīd al-Ju'fī. This naturally imposes a great deal of impediment in understanding firsthand the exact aims and objectives of Imam al-Ḥusayn's (a) movement. Another formidable challenge is that oral transmission of history (*al-ḥadasī* instead of *al-ḥissī*), especially one as emotionally charged as Karbala, can be prone to exaggeration, even in the setting of eyewitnesses.

ii. Secondary sources: These consist of sources that are primarily chronological encyclopedias of Islamic history, but quote the primary sources in narrating the events of 'Āshūrā'; these include books such as *Tārīkh al-Umam wa al-Mulūk* by al-Ṭabarī, *Kitāb al-Irshād* by Shaykh al-Mufīd, *Manāqib Āl Abī Ṭālib* by Ibn Shahr Āshūb, *Kitāb al-Futūḥ* of Ibn A'tham al-Kūfī, *al-Akhbār al-Ṭiwāl* by al-Dīnawarī, and *al-Bidāyah wa al-Nihāyah* by Ibn Kathīr, among many others. We also have *maqtal*s in this category that try to draw from earlier sources, such as *al-Luhūf fī Qatlā al-Ṭufūf* of Ibn Ṭāwūs and *Muthīr*

8 One of the primary *maqtal*s, that of Abū Mikhnaf (d. 157 AH), is no longer extant but has been reconstructed by historian scholars such as Shaykh Yūsufī al-Gharawī through consolidating secondary sources such as *Tārīkh al-Ṭabarī* that mention excerpts from his narrative. Of course, due to this, we cannot truly know whether we have a complete reconstructed monograph of Abū Mikhnaf's account. There is another version of Abū Mikhnaf's *maqtal* in circulation, which appears to be a fabrication.

al-Aḥzān by Ibn Numā al-Ḥillī. Although these sources may attempt to be objective, the reader must not neglect that each historian may have had his own specific biases. In turn, one cannot overlook the possibility of exaggerations, especially by those who were wont to exploit people's emotions in the charged atmosphere of that society, which was quite rampant during the early Abbasid era. In general, events of this nature provide numerous opportunities for distortion, exaggeration, and omission. Such motives exist both on the part of the ruling powers and their opponents.[9] Some historians, such as Rasūl Ja'fariyān, have opined that one should scrutinize historical details about 'Āshūrā' that are only found in a single secondary source. This is appreciated even more so when one realizes that many of these sources do not include *isnād*, adopting a more narrative style with truncation of the transmitters.[10]

iii. Tertiary sources: These consist of sources that attempt to collate and historically critique or refine the narrative of Karbala with reference to various primary and secondary sources. Examples of these books include *Nafas al-Mahmūm* of Shaykh 'Abbās al-Qummī, *Lawā'ij al-Ashjān* by Sayyid Muḥsin al-Amīn, *Ḥamāseh-ye Ḥusaynī* by Shahīd Murtaḍā Muṭahharī, *Maqtal-e Jāmi'* by Sayyid Mahdī Pīshwā'ī, and *Shahādatnameh-ye Imām-e Ḥusayn* by Shaykh Muḥammad Rayshahrī. The challenge with these books is that they sometimes rely

9 As an example, one may cite narrations in these secondary sources that claim that Imam al-Ḥusayn (a) asked 'Umar ibn Sa'd during negotiations to hand him over to Yazīd in order that he may pay him allegiance. These have been deemed fabrications by many Shia scholars.

10 Rasūl Ja'fariyān also has interestingly noted that the three extant primary sources we discussed (Abū Mikhnaf, al-Balādhurī, and Ibn Sa'd) were lost for a millennium and were only recently discovered within the past two or three centuries. Therefore, one must wonder which primary sources the secondary sources mentioned here were relying upon in transmitting the events of Karbala. For more details, see here: https://tinyurl.com/45wxmbzr

on a methodology that may be either too lenient or overly stringent in filtering narrations.[11]

iv. Quasihistorical sources: This consists of a vast body of literature that appears to incorporate supernatural or mythological elements in narrating the events of Karbala. Many of these books have been authored specifically for lamentation purposes and often utilize poetic elements, hypothetical speech (*zabān-e ḥāl*), and dreams/visions in their narratives. Among the prototypical forms of this literature are *Rawḍat al-Shuhadā'* by Mullā Ḥusayn Wā'iẓ Kāshifī and *Tadhkirat al-Shuhadā'* by Mullā Ḥabīb-Allāh Kāshānī, which were authored during the Safavid and Qajar dynasties during the emergence of an ornate art form known as *rawḍah-khwānī* (elegy recitation) which remains prevalent in Iranian culture today. The methodological problems in relying on these books to inform one's knowledge of Karbala are obvious.[12]

Given that jurisprudence is predicated upon narrations and accounts that meet the prerequisite of a certain level of authenticity (*al-wuthūq*), it becomes even more salient for those who believe 'Āshūrā' has jurisprudential implications to scrutinize the narratives to support their conclusions. Furthermore, one must understand that during the early period of Imam al-Ḥusayn (a), jurisprudential terminology and discussions about Islamic rights (*al-ḥuqūq*) was still underdeveloped, and therefore one must be very sensitive to the possibility of committing the fallacy of presentism in interpreting the events of Karbala.[13]

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11 Some reservations and critiques regarding tertiary sources have been made by the contemporary Arabic scholar Sayyid Munīr al-Khabbāz: https://www.youtube.com/watch?v=1QbBoYbgT8A&t=0s

12 More details regarding these quasihistorical narratives can be found here: https://iqraonline.net/popular-unreliable-accounts-related-to-ashura/

13 For example, some writers assume that the Arabic word shī'ah specifically implies those who believe in the doctrine of infallibility and imamate through designation as espoused by the Twelver Shias

C. The Religious Preconceptions of its Analysts

Inevitably, the religious ideology of those who write about 'Āshūrā' plays an inextricable role in how they perceive the events of Karbala. Depending on the credal tenets held regarding the position and authority of the Imam, one shall naturally draw different conclusions regarding the underlying motivations of Imam al-Ḥusayn (a). We draw the reader's attention to the following points, for instance:

i. The Doctrine of Foreknowledge of the Imam Regarding his Demise: There are different gradations of belief regarding the extent of Imam al-Ḥusayn's (a) knowledge of what would transpire in Karbala. Depending on whether one believes he had a complete detailed knowledge of what would transpire or absolutely no foreknowledge, the conclusions shall drastically differ.[14] In the case of complete foreknowledge, we have an Imam that is actively and deliberately proceeding towards his death, whereas in the case of an uninformed Imam, we shall interpret the event as a passive and unintended tragedy.

ii. The Doctrine of Infallibility: If one believes that Imam al-Ḥusayn (a) is inerrant and cannot commit any mistake whether religious or mundane, then this will influence how one perceives his actions at Karbala. In contrast, those who believe he could make political or religious mistakes may introduce the factor of human error in how they interpret 'Āshūrā'. Sometimes, an analyst may accept the Imam's foreknowledge but reject infallibility. For instance, the Sunni scholar Sayf al-Dīn al-Āmadī

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of today. However, in the first two centuries of Islamic history, this word was used to describe those who simply had Alid loyalties or affinities. Equally fallacious is to assume that Imam al-Ḥusayn (a) was a humanistic freedom fighter or that Lady Zaynab (a) was a forerunner of feminist ideals.

14 We have discussed this point in depth in the past here: https://iqraonline.net/the-foreknowledge-of-imam-husayn-as-regarding-his-death-was-it-suicide/

(d. 623 AH) has used the verse of not casting oneself into perdition (Qur'an 2:195) to cast aspersions on the infallibility of Imam al-Ḥusayn (a): that despite him apparently knowing about his martyrdom, he acted in contradiction to the dictates of the verse of perdition.[15]

iii. The Question of Political Motivation: Some believe that it was always the political mission of the prophets and Imams to establish a government of justice and equity, whereas others believe that the Imams and prophets did not have any political aspirations and simply called people towards religious ideals. Those who interpret the tragedy of 'Āshūrā' from a political lens will obviously have drastically different conclusions from those who interpret it as one driven by non-political factors.

D. The Perpetual Annual Renewal of Karbala's Memory

A final factor in accounting for why there is such a variety latent in the interpretations of 'Āshūrā', especially among Shia circles, is because it is considered a religious duty and obligation to mourn and commemorate the events of Karbala annually. Naturally, as the exigencies of different eras change, the interpretation of 'Āshūrā' may be colored and leveraged to support certain initiatives and political ideas. For instance, as previously mentioned, in the Safavid period, the focus was on ornate artistic forms in reliving the tragedy of Karbala and this lent a mythological and superstitious flavor to the narratives regarding 'Āshūrā'. As another example: when one examines the literature penned regarding Karbala, it becomes clear that the focus on political activism is relatively recent, specifically over the past two centuries and mostly after the Persian Constitutional Revolution and the Iranian Revolution. Prior to this period, most literature was focused on the tragic elements of 'Āshūrā' without much opining regarding the motivations underlying Imam al-Ḥusayn's (a)

15 *Abkār al-Afkār fī Uṣūl al-Dīn*, v. 5, p. 203.

uprising.[16] It therefore appears that the political aspirations of Shia scholars played a major role in re-envisioning the jurisprudential implications of 'Āshūrā'.

In the context of this discussion, we will first aim to address the question of whether any jurisprudential implications can be derived from Karbala. There are two broad camps on this frontier among Muslim scholars: those who negate the existence of being able to derive any jurisprudential implications and those who affirm it. Within each of these camps, we can summarize various disparate viewpoints regarding their respective interpretations of 'Āshūrā' and Imam al-Ḥusayn's (a) motivations for his stand. We will attempt to quote representative scholars directly, but as we mentioned we will not delve too deeply into the evidence they leverage or any critique of their viewpoints, as this may require an entire book to properly elucidate.

16 This observation has been made by both Rasūl Ja'fariyān and Ḥaidar Ḥobbollāh in their respective works which we quoted earlier.

CHAPTER TWO:
THOSE WHO BELIEVE NO JURISPRUDENTIAL IMPLICATIONS CAN BE DERIVED FROM IMAM AL-ḤUSAYN'S (A) MOVEMENT

Several Muslim scholars have opined that the movement of Imam al-Ḥusayn (a) carries no jurisprudential significance. This view is informed by what analysts believe were the underlying motivations for why Imam al-Ḥusayn rose against Yazīd. This header subsumes five major theories: the illegitimate viewpoint, the mysterious knowledge viewpoint, the mystical union viewpoint, the intercessory viewpoint, and the evasive viewpoint.

A. The Illegitimate Viewpoint

The adherents of this analysis consist of Sunni scholars with a particularly pejorative stance against the revolution of Imam al-Ḥusayn (a). Naturally, this group does not believe there are any jurisprudential implications to the uprising of Imam al-Ḥusayn (a), because they believe it was in the first place a blunder and religiously inexcusable (*ḥarām*). They believe that the only reason Imam al-Ḥusayn

(a) stood up was for mundane political aspirations and love of leadership, whereas it was more religiously expedient for him to submit to Yazīd's earthly authority like the rest of the Companions and the Followers. In fact, in their view, Imam al-Ḥusayn (a) was duped and beguiled by the Kufans into political uprising but then betrayed; therefore, he committed an error in his religious judgement (*ijtihād*) and should have remained patient in the face of Umayyad tyranny. While the Shia are of course vehemently opposed to this viewpoint, it has nonetheless exerted a powerful sway in Sunni circles to the present-day, especially among Salafists.

Among scholars who adopted this viewpoint was Abū Bakr ibn ʿArabī al-Andalūsī al-Mālikī (d. 543 AH) who states:

فلم يفد شيء من هذه الجهود في تحويل الحسين عن هذا السفر الذي كان مشئوما عليه، وعلى الإسلام وعلى الأمة الإسلامية إلى هذا اليوم وإلى قيام الساعة، وكل هذا بجناية شيعته الذين حرضوه بجهل وغرور، رغبةً في الفتنة والفرقة والشر

"None of it [the warnings of al-Ḥusayn's contemporaries not to uprise] availed in averting al-Ḥusayn from this journey, which spelt nothing but evil for him, Islam, and the Muslim ummah until today and extending to the Day of Judgement. All of this was due to the criminal activity of his Shia, who instigated him through their ignorance and deception, desiring to sow tribulation, dissension, and evil."[17]

Another Sunni scholar who also adopted this same view is the Egyptian historian Muḥammad al-Khuḍarī (d. 1345 AH), who states:

17 *Al-ʿAwāṣim min al-Qawāṣim*, p. 233.

وعلى الجملة فإن الحسين أخطأ خطأً عظيماً في خروجه هذا الذي جر على الأمة وبال الفرقة و الاختلاف وزعزع عماد ألفتها إلى يومنا هذا وقد اكثر الناس من الكتابة في هذه الحادثة لا يريدون بذلك إلا أن تشتعل النيران في القلوب فيشتد تباعدها . غاية ما في الأمر أن الرجل طلب أمراً لم يتهيأ له ولم يعد له عدته فحيل بينه وبين ما يشتهي وقتل دونه

"In summary, al-Husayn committed a great mistake in this uprising of his which brought forth the bane of dissension and tribulation in the ummah, toppling the foundation of its solidarity until the present-day. People have gone into excess in writing about this event and do not desire to do so except to ignite inflammatory sentiments in the hearts, which in turn draws us further away from one another. What can be said is that the man [i.e., Imam al-Husayn (a)] sought an affair which he was not prepared to undertake and did not have the proper means to assume; therefore, he was intercepted from reaching what he aspired to and was killed without being able to achieve it."[18]

The famous Sunni scholar Ibn Taymiyyah (d. 728 AH) also has said:

وكان في خروجه وقتله من الفساد ما لم يكن حصل لو قعد في بلده. فإنَّ ما قصده من تحصيل الخير ودفع الشر لم يحصل منه شيء، بل زاد الشر بخروجه وقتله، ونقصَ الخير بذلك وصار ذلك سبباً لشرّ عظيم وكان قتل الحسين مما أوجبَ الفتن، كما كان قتل عثمان مما أوجب الفتن وهذا كله مما يبين أن ما أمر به النبي (صلى الله عليه وسلم) من الصبر على جور الأئمة، وترك قتالهم، والخروج عليهم هو أصلح الأمور

18 *Muḥāḍarāt Tārīkh al-Umam al-Islāmiyyah, p. 405.*

للعباد في المعاش والمعاد، وأن من خالفَ ذلك متعمداً، أو مخطئاً، لم يحصل بفعله صلاح بل فساد

"In the wake of his [al-Ḥusayn's] uprising and death, corruption ensued that would not have occurred had he just stayed in his city. For indeed, he did not at all obtain what he intended to achieve of goodness and avert of evil; rather, evil was only amplified and goodness was only truncated by his uprising and death. It became a cause of great evil, and his death engendered a great deal of discord, just as the death of 'Uthmān had led to discord. All of this substantiates what the Prophet (s) has said regarding being patient in the face of the tyranny of the leaders and avoiding confrontation and uprising against them. For this is more expedient in preserving the affairs of the servants [of God] in their worldly lives and their hereafter. Anyone who goes against this precept, whether deliberately or mistakenly, will not achieve anything of rectitude, rather [he will only engender] corruption."[19]

B. The Mysterious Knowledge Viewpoint

This is a theory adopted by several Shia scholars, which proposes that we cannot know the exact reasons for why Imam al-Ḥusayn (a) rose against the Umayyads. Rather, this is a secret which remains between him and God alone; all we know is that this was a duty particular to him and he fulfilled it accordingly. The Holy Prophet (s) had already informed Imam al-Ḥusayn (a) that he would be martyred, and this was God's decree to which Imam al-Ḥusayn (a) relented. Since this group believes that this obligation to revolt was specific to Imam al-Ḥusayn (a), it follows that they do not predicate any jurisprudential conclusion upon it. Among scholars who advocate for this viewpoint is Muḥammad Ḥasan Najafī (d. 1266 AH), who states in his magnum opus *Jawāhir al-Kalām*:

19 *Minhāj al-Sunnah*, v. 4, pp. 527-531.

وما وقع من الحسين عليه السلام مع أنه من الأسرار الربانية والعلم المخزون يمكن أن يكون لانحصار الطريق في ذلك، علما منه عليه السلام أنهم عازمون على قتله على كل حال....على أنه له تكليف خاص قد قدم عليه وبادر إلى إجابته، ومعصوم من الخطأ لا يعترض على فعله ولا قوله، فلا يقاس عليه من كان تكليفه ظاهر الأدلة والأخذ بعمومها وإطلاقها مرجحا بينها بالمرجحات الظنية

"What happened to Imam al-Husayn (a), notwithstanding that it was among the divine secrets and preordained knowledge, is possibly because there was no other path for him other than this. He knew (a) that they were intent on killing him no matter what ... of course, he had a uniquely personal obligation which he endeavored to fulfill. Someone who is immaculate from committing error is not questioned regarding his actions and words; you cannot compare his action with someone who must determine his religious duty on the basis of apparent pieces of evidence that he must extrapolate and weigh against each other through deductive means."[20]

Another Shia scholar who echoed these sentiments was Shaykh Ja'far al-Tustarī (d. 1303 AH), where he states:

قد امتثل لله تعالى خطابا خوطب به في صحيفة مكتوبة له خاصة ، جاء بها جبرئيل عليه السلام من الله تعالى واودعها عند نبيه محمدا صلوات الله عليه واله ، ثم سلمها (ص) الى عليا (ع) ثم علي الى الحسن (ع) ثم سلّمها الحسن المجتبى الى اخيه الحسين عليهما السلام عند وصيته ، فامتثل خطابا خاصا من تكاليفه الخاصة ، والخطاب الخاص هو : " اخرج بقوم الى الشهادة فلا شهادة لهم الا معك

20 *Jawāhir al-Kalām*, v. 21, pp. 295-296.

واشتر نفسك لله عز وجل " ، نعم فامتثل عليه السلام خطابا خاصا من تكاليفه الخاصة

"He [Imam al-Husayn(a)] acted in accordance with the dictates of God, based on an address that was specifically directed to him in a written record that Gabriel (a) brought down from God and gave to the Holy Prophet (s). The Prophet gave this record to Imam ʿAlī (a), who then gave it to al-Ḥasan (a), who then passed it down to al-Ḥusayn as his testament. Al-Ḥusayn acted in accordance with this specific address that expounded specific obligations, and it read as follows: 'Rise up with a group of people towards martyrdom, for there is no martyrdom ordained for them except with you; and transact your soul for the sake of God, the Almighty.' Indeed, he acted in accordance with this specific commandment, which was particular to him alone."[21]

In more contemporary times, the Iraqi scholar Sayyid Muḥammad al-Ṣadr (d. 1419 AH) has stated the following:

و لا ينبغى أن ننسى أن أكثر أئمتنا المعصومين عليهم السلام، عانوا من ظروف التقية و المسالمة و الهدنة مع الآخرين الشيء الكثير بصبر عظيم و صدر رحب كريم. لا يستثنى من ذلك- بعد ولاية أمير المؤمنين عليه السلام- إلا ثورة الحسين عليه السلام. التى كانت لها مصالحها الخاصة التى لا يمكن القياس عليها أو استنتاج القاعدة العامة منها. و التى لا يصدّق فيها و فى أمثالها إلا المعصوم عليه السلام. و المهم أن الجهاد الإسلامى، إذا لم يكن موجودا، فلا حاجة إلى التعرض إلى أحكامه أو ولايته، و لذلك أيضا سوف لن نتعرض لكتاب الجهاد الذى يذكره الفقهاء فى مصادرهم القديمة أيضا

"It is not appropriate for us to forget that most of our infallible Imams (a) suffered from circumstances that demanded dissimulation, maintaining the peace, and establishing a truce with their adversaries on many an issue, all the while maintaining intense perseverance and the utmost openheartedness.

21 *Al-Khaṣā'iṣ al-Ḥusayniyyah*, pp. 30-31.

There is no exception to this—after Amīr al-Mu'minīn (a)—except for the revolution of Imam al-Ḥusayn (a). This revolution had its own expediencies which are not subject to rational reasoning or extrapolation. There is none who appropriately fits its criteria except the infallible Imam (a). The important point is that Islamic holy war (jihād), given that it is not present today, does not require any exposition regarding its rules or its authoritative underpinnings; we will therefore eschew discussing the chapter of jihād that is exposited by the jurists of old in their respective works."[22]

C. The Mystical Union Viewpoint

This view is held specifically by Sufi and mystically inclined scholars; in gist, they state that Imam al-Ḥusayn (a) chose the path of love and union with the Divine, flouting the dictates of reason and rationality. They state that Imam al-Ḥusayn (a) and his supporters could see nothing but God and had completely dissolved their own identity into the Divine. They state that the rank of an individual in their union with God is proportionate to the tribulation they face in the journey of returning back to Him, and therefore Imam al-Ḥusayn (a) chose this tragic martyrdom based on his own volition and as such achieved otherworldly felicity. Hence, they claim, there is no point mourning for Imam al-Ḥusayn (a); rather, his victory of achieving divine union should be celebrated. Given that the motives of Imam al-Ḥusayn (a) were not rational, there is therefore no jurisprudential implication that should be abstracted or extrapolated from his movement.

One of the most famous Sufi scholars who has alluded to his support for this viewpoint is the famous Jalāl al-Dīn Rūmī (d. 672 AH), who states in a famous ghazal of his:

کجایید ای شهیدان خدایی بلاجویان دشت کربلایی

22 *Mā Warā' al-Fiqh*, v. 2, p. 106.

کجایید ای سبک روحان عاشق پرنده‌تر ز مرغان هوایی

کجایید ای شهان آسمانی بدانسته فلک را درگشایی

کجایید ای ز جان و جا رهیده کسی مر عقل را گوید کجایی

کجایید ای در زندان شکسته بداده وام‌داران را رهایی

کجایید ای در مخزن گشاده کجایید ای نوای بی‌نوایی

در آن بحرید کاین عالم کف او است زمانی بیش دارید آشنایی

کف دریاست صورت‌های عالم ز کف بگذر اگر اهل صفایی

دلم کف کرد کاین نقش سخن شد بهل نقش و به دل رو گر ز مایی

برآ ای شمس تبریزی ز مشرق که اصل اصل اصل هر ضیایی

"Where are you, O martyrs of God, who have sought affliction in the land of Karbala?

Where are you, O light-spirited lovers, who fly more smoothly than the birds of the wind?

Where are you, O kings of the skies, who know how to unlock the celestial spheres?

Where are you, O those freed from space and soul—nay, does anyone even ask the intellect: where are you?

Where are you, O those who have broken the door of the prison and given relief to the debtors?

Where are you, O those who have opened the gate of the treasure vault, O where are you, who possess the wealth of austerity?

You traverse an ocean for which this world is its surface, you have swam it for long;

The surface of this ocean is but the forms of this world, pass through the surface if you are of the pure folk

My heart has burst forth in the form of these words; if you are of us, leave the form and go to the heart

Rise— O Shams-e Tabrīzī —from the East, for you are the source of the source of the source of every light!"[23]

As one can see, Rūmī celebrates the martyrs as having achieved a status wherein they have achieved ultimate release from this world in actively seeking out the torment of Karbala and transcended the dictates of their soul and mind; they are not questionable by the intellect and are altogether in a realm of their own.

Another famous Sufi poet, known as Ṣafī ʿAlī Shāh (d. 1316 AH), states in a famous poem, discarding completely the ability of the intellect to understand the sacrifice of Karbala:

آفتاب عشق میدان تاب شد عقل آنجا برف بود و آب شد

عقل تنها نی دم از هیهات زد عشق را هم بهت برد و مات زد

"The Sun of divine love arose there [in Karbala] and the intellect itself dissolved;

The intellect only shouted the slogan 'hayhāt!' and was confounded at the sight of divine love."[24]

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23 *Dīwān-e Shams*, ghazal 2707.

24 *Zubdat al-Asrār*, p. 56.

D. The Intercessory Viewpoint

The advocates of this theory believe that Imam al-Ḥusayn (a) rose up with full knowledge of his martyrdom in order to serve as a means of salvation for the sinners among his Shia. This viewpoint was prevalent among the public Shia mourning laity as well as scholars that had a strong affinity towards elegy recitation. In gist, there is a strong resemblance to the Christian belief here that Jesus was crucified in order to serve as a sacrifice for the sins of humanity; in the same way, the advocates of this view believe that Imam al-Ḥusayn ransomed himself in order to intercede and wipe out the sins of his mourners.

As such, we find the Shia scholar Shaykh Muḥammad Bāqir Sharīf Ṭabāṭabā'ī writes:

امام مستجاب الدعوه است پس اگر حضرت سید الشهدا علیه السلام می خواست نفرین کند که دشمنان او ،مانند قوم عاد و ثمود ،هلاک شوند ، پیش ازآنکه بر او دست یابند ،نفرین می کرد و خداوند عالم همه را هلاک می کرد لکن چون می خواست کشته شود از برای اینکه مومنین اولین و آخرین بر او جزع کنند و گریه و زاری نمایند و تمنای این کنند که کاش با او بودند و به فوز عظیم شهادت فایز بودند تا به این وسیله گناهان ایشان آمرزیده شود و گریه و اندوه ایشان کفاره گناه ایشان باشد و این گریه و اندوه بدون شهادت چنین بزرگواری صورت وقوع نمی یافت پس در واقع شهادت آن بزرگوار کفاره جمیع گناه گناهکاران است

"The Imam (a) is guaranteed to get a response in his supplication (mustajāb al-da'wah). Therefore, if the Master of the Martyrs (a) had so willed he would have cursed his enemies such that they would be destroyed, just like the tribes of 'Ād and Thamūd. Even before they had overcome him, he was at liberty to curse them, and God would have destroyed them, each and all. However, he wanted to be killed in order that the believers, from the first to the last of them, would lament, mourn,

and weep over him. He wanted the believers to yearn if only they had been with him so that they would have achieved the victory of martyrdom. As such, he desired for their sins to be forgiven, and that their tears and sorrow should become expiation for them for their vices. This [merit of] crying and lamentation would not have been actualized if not for the martyrdom of this great personality. Thus, in actuality, the martyrdom of this distinguished individual is an absolution for the sins of all the sinners."[25]

We find the famous scholar Mullā Muḥammad Mahdī Narāqī (d. 1209 AH) also writes as follows:

امام حسین برای رسیدن به شفاعت کبرا که مقتضی استخلاص همه محبان و موالیان باشد....به شهادت راضی شد ...زیرا که رفع کدورات معاصی امت و شفاعت ایشان موقوف بر خون و تالم ایشان است

"In order to achieve the station of ultimate intercession, which would result in the salvation of all his lovers and professors of his wilāyah … Imam al-Ḥusayn became pleased with his martyrdom … This is because the wiping out of the stains of disobedience of the ummah and interceding for them is contingent upon his blood and pain."[26]

Furthermore, the jurist Aḥmad al-Musawī al-Mustanbiṭ (d. 1399 AH) states the following:

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25 *Asrār Shahādat Āl Allāh*, pp. 133-134. In fact, this scholar has gone so far as to say the following in this same book (p.147):

اگر کسی ایمان به کفاره بودن شهادت او نداشته باشد در حقیقت مشرک است

"If anyone does not believe that his [Imam al-Ḥusayn's (a)] martyrdom was expiation [for sins], then in reality he is a polytheist."

26 *Muḥriq al-Qulūb*, p. 4.

شهادت امام حسین ع به عوض گناهان شیعیانش است و سپری است برای ایشان در برابر آتش

"The martyrdom of Imam al-Ḥusayn (a) occurred in exchange for the sins of his Shia, and it is a shield for them from the fire of hell."[27]

E. The Evasive Viewpoint

This viewpoint holds that the motive for which the Imam left Medina towards Mecca and then Mecca towards Kufa was not due to political uprising at all, but rather out of fear and a desire to escape the political pressures being imposed on him to give allegiance to Yazīd. It was only later when his hand was forced and he was ambushed by the army of Ibn Ziyād that he chose to fight and pursue martyrdom rather than surrender. Therefore, his intention from the beginning was not motivated by any political reform nor a desire to stand against oppression; rather, he was simply intent on self-preservation and not being compelled to give allegiance to the unrighteous and tyrannical Yazīd. As such, it is not possible to predicate any jurisprudential conclusions on his stance or maneuvers since these occurred due to personal and psychological duress.

Among the advocates of this theory is the scholar and historian Hibat-Allāh al-Shahristānī, who writes:

يصف الواصفون لتاريخ الحسين (عليه السلام) أشد ليالي حياته عليه ليلة مقتله في الطف، تلك الليلة التي حوصر فيها هو وذووه في بقعة جرداء وضاقت عليه الأرض بما رحبت، ومُنع حتى من شرب الماء المباح فلم تهجع عيناه حتى الصباح، ولا يبعد أن يكون أشد ليالي الحسين ليلة مرجعه من مجلس الوالي في المدينة وحيرته في سيرته مع القوم الظالمين، إذ كان الحسين (عليه السلام) ليلة مقتله على بصيرة

27 *Al-Qaṭrah min Biḥār Manāqib al-Nabī wa al-'Itrah*, v. 1, p. 186.

من أمره، وأن ليس بينه وبين الجنة سوى سويعات; لكنما الحسين (عليه السلام) في ليلة هجرته من مدينة جدّه كان في جهاد فكري وألم عقلي يفكر في مبايعته ليزيد وكونها ضرباً من المحال ثم يفكر في بقائه في حرّم جدّه، ولكن ذلك استسلام لمروان فيما يفعل به و بأسرته... إذن فبماذا يصنع الحسين (عليه السلام)؟ إلاّ أن يهاج إلى مكة ابتغاء الابتعاد من المنطقة المروانية، ولقاء وجوه المسلمين في الحج، وانتظار الفرج

"Those who recount the history of al-Ḥusayn (a) describe that the most difficult night of his life was the night preceding his martyrdom at Ṭaff [i.e. Karbala]; that was the night in which he and his family was besieged in a desolate land, the Earth was restrained onto him despite its vastness, and he was prohibited from drinking water such that he remained sleepless until the morning. However, it is not farfetched to state that the most difficult night for al-Ḥusayn (a) was probably the night he returned from the governor of Medina, where he was left utterly confounded by the manner in which he was being treated by the oppressive folk. This is because on the eve preceding his martyrdom he clearly knew what was to happen and had conviction that there was nothing between him and heaven except a few mere hours. However, on the night of his migration from the city of his grandfather, al-Ḥusayn (a) was struggling with his thoughts and undergoing intellectual agony—he was thinking about allegiance to Yazīd and how this was impossible for him to do. Then he also thought about whether he should remain in the sanctuary of his grandfather, however this would be surrendering himself to Marwān in what he would do to him and his family … therefore, what was al-Ḥusayn (a) to do except to take flight towards Mecca, seeking to distance himself from Marwān's sphere of influence, meet the influential personalities of the Muslims at ḥajj, and await achieving relief [from the political pressure]."[28]

A contemporary and reformist scholar who has advocated for this view is Dr Abdolkarīm Soroush, who advances a secular interpretation of the events leading up to 'Āshūrā' and

28 *Nahḍat al-Ḥusayn*, v. 1, p. 75.

believes that those narrations that state Imam al-Ḥusayn (a) had foreknowledge about his martyrdom are fabrications. As such, he advocates that Imam al-Ḥusayn (a) did not desire to die and had no political or reformist aspirations. Rather, he claims, he was not revolutionary at all and was only seeking to escape the political demands imposed upon him. However, when he was finally cornered, he chose martyrdom (*shahādah*) over humiliation (*dhillah*).[29]

This concludes our discussion of those who believe that Imam al-Ḥusayn's (a) movement had no jurisprudential implications. In the next chapter, we will discuss the various scholars throughout Shia history who have sought to glean a jurisprudential significance from 'Āshūrā'.

29 I was unable to locate a specific written source clarifying Soroush's views, however he has an extended discussion on his views in Persian which can be found here: https://www.youtube.com/watch?v=fUIhB3QCSEI

CHAPTER THREE:
THOSE WHO BELIEVE IMAM AL-ḤUSAYN'S (A) MOVEMENT HAS JURISPRUDENTIAL IMPLICATIONS[30]

In the previous chapter, we made some prefunctory remarks regarding the challenges of extracting jurisprudential discussions from the tragedy of Karbala. We also explained how the question of whether jurisprudential implications can be drawn out of 'Āshūrā' is intimately tied with one's viewpoint regarding the underlying motives of Imam al-Ḥusayn's (a)

30 We have compiled this discussion based on several Arabic and Persian sources, which we list here in order of importance for advanced readers to review:
1. *Nigāh beh 'Āshūrā' dar Fiqh-e Shī'ah*, by Rasūl Ja'fariyān (https://tinyurl.com/y3vf62d7).
2. *'Āshūrā' dar Fiqh*, by Sayyid Ḍiyā' Murtaḍawī (https://tinyurl.com/1skh8bma).
3. *Al-Ḥarakah al-Ḥusayniyyah wa al-Tā'sīl al-Fiqhī li-Shar'iyyat al-Thawrah*, by Dr Ḥaidar Ḥobbollāh (https://tinyurl.com/26h8mc4m).
4. *Nazrat al-Fiqh ilā Ḥādithat 'Āshūrā'*, by Dr Mohammad Soroush Maḥallātī (https://tinyurl.com/ys97bbcc).
5. *Fiqh 'Āshūrā'*, by al-Sayyid Muṣṭafā al-Ḥusayniyān (https://tinyurl.com/bddvyw48).
6. *Karbalā' az Riwāyat tā Dirāyat: Nigāhī-ye Mujaddad beh 'Āshūrā' wa Fiqh* (https://tinyurl.com/yyufic5a).

uprising. We furthermore elaborated five viewpoints of scholars who negate the presence of any jurisprudential connotations in Imam al-Ḥusayn's (a) uprising. In this chapter, we will aim to clarify which viewpoints regarding Imam al-Ḥusayn's (a) motives in Karbala lend themselves towards the possibility of jurisprudential analysis and discussion. With reference to the works of various Shia jurists, we shall subsequently elaborate the pertinent discussions of jurisprudence relevant to 'Āshūrā'.

As we discussed in the previous chapter, if the motives of Imam al-Ḥusayn (a) are seen as selfish, clandestine, mystical, intercessory, or evasive, the jurisprudence of 'Āshūrā' in this setting becomes meaningless. It is only when one attempts to rationalize the uprising of Imam al-Ḥusayn (a) that a discussion regarding the jurisprudence of 'Āshūrā' becomes relevant. Within the Shī'ī paradigm, the impetus for rationalizing Imam al-Ḥusayn's (a) movement stems from three factors:

1. From a polemical perspective, it provides a mechanism by which to answer the critics (whose views we mentioned in the previous chapter), who believe that Imam al-Ḥusayn (a) was politically unsavvy and made errors. If we claim the strategic movements of the Imam are not amenable to any sort of rational analysis, it becomes difficult to adequately address these contentions.

2. Believing that Imam al-Ḥusayn (a) acted with clearly analyzable goals in mind allows one the potential to derive relevant lessons and guidance from his conduct (*al-sīrah*). If we are to claim that the actions of the infallibles are completely suprarational and have no governing rules, the question of emulating their example is undermined.

3. It provides a legitimate precedent for the emergence of Shia political movements. If Imam al-Ḥusayn's (a) actions in Karbala can be interpreted within a rational paradigm to legitimize efforts towards political mobilization, this shall in turn provide further clout towards establishing a religious government.

When we look in the history of early Shiism, we find that this attempt at rationalizing 'Āshūrā' was not at all mainstream; in fact, the focus of our scholars was nearly all directed towards assimilating and recounting the lamentation narrative. Hence, the question of jurisprudence as it pertains to 'Āshūrā' was entirely alien. Hence, we find that al-Ṣadūq's (d. 380 AH) *al-Muqni'*, al-Mufīd's (d. 413 AH) *al-Muqni'ah*, and al-Ṭūsī's (d. 460 AH) *al-Nihāyah* do not at all mention Imam al-Ḥusayn's (a) uprising as an issue from which any jurisprudential principles may be gleaned. It was in the fifth century AH that attempts at rationalizing Imam al-Ḥusayn's (a) movement entered the arena, and even in this context the discussion was primarily theological polemics, such as in the writings of al-Mufīd and Sharīf al-Murtaḍā (d. 436 AH), which we will discuss later on.

Generally speaking, it appears that the exigency to rationalize Imam al-Ḥusayn's (a) uprising emerged specifically within the last approximately 150 years, in coincidence with the appearance of Twelver Shia political movements. In contrast to the Zaydis, Imāmī Shias traditionally believed in the principle of dissimulation in their interaction with oppressive governments, especially during the occultation period, and did not support armed uprisings. The Tobacco Fatwa of 1890, the Persian Constitutional Revolution of 1907, and the Iranian Revolution of 1979 constituted key milestones in the reinvisioning of Twelver Shia political authority, and therefore rationalizing a precedent for these political maneuverings in the uprising of Imam al-Ḥusayn (a) became more salient.

In the wake of this newfound interest in the political agenda of Imam al-Ḥusayn (a), new rationalist viewpoints regarding his motives emerged, which we will summarize below. As the reader will duly notice, all these scholars are relatively recent, either contemporary or recently deceased within the past roughly two centuries. As we did in our previous chapter, we have extracted key excerpts from a handful of scholars under each viewpoint, although an entire monograph to elucidate

all the nuances, supporting evidence, and critiques for each of these theories is outside the scope of this humble work.[31]

Underneath this heading, we can classify the scholars who rationalize the motives of Imam al-Ḥusayn's (a) uprising under three broad categories: 1. To establish a political order and government; 2. To revive Islam and spiritually resurrect the dying Muslim nation; and 3. A combination of several simultaneous or successive motivations.

F. The Political Viewpoint

> The advocates of this theory believed that Imam al-Ḥusayn's (a) goal from the very inception of his mission was to topple the Umayyad government and establish a religious government of his own, based on Islamic values and justice. It was for this very reason of political mobilization that he had exchanged letters with the leaders of Kufa and sent his cousin Muslim ibn ʿAqīl to affirm the veracity of their allegiances to him. He embarked with his family and a great deal of wealth from Medina with exactly this aim of political revolution in mind. To emphasize this point, they reference various statements cited in the *maqātil* literature that note the Imam was seeking justice, desiring to enjoin good and forbid evil, and revive the example of his father and grandfather. These scholars therefore believe there is a very explicit historical precedent in seeking political enfranchisement within the paragon of Imam al-Ḥusayn (a).

Therefore, we find that Shaykh ʿAlī ibn ʿAbd-Allāh al-Baḥrānī al-Sitrī (d. 1319 AH) states:

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31 In his 500-page tome *ʿĀshūrā' Pazhūhī*, Shaykh Muḥammad Siḥḥatī Sardurūdī has endeavored to do exactly this, assimilating the viewpoints of various Shia and Sunni thinkers about the motives of Imam al-Ḥusayn (a) in Karbala. Advanced readers are recommended to review this book for more information.

وكان يطلب الخلافة لأنها ميراث جده ومنصب أبيه حتى صار من نكثهم ما صاروا وقتل شهيدا ومضى حميدا صلوات الله عليه ويجري العلم بذلك عند العلماء مجرى العلم بشهادته فالحسين طالب للخلافة بغير شك ولا ريب وكان يطلبها للتوصل بها إلى القدرة على إحياء السنة وإماتة البدعة وإقامة الحق ونشر العدل وتأمين السبل وأخذ الحقوق وإقامة الحدود وإنفاذ الأحكام وهذه هي الحكومة الشرعية التي هي مقام النبي ولهذا الغرض بعينه طلبها أبوه أمير المؤمنين وقاتل عليها لما وجد الناصر أهل الجمل وأهل صفين وغيرهم

"He [Imam al-Ḥusayn (a)] sought the caliphate because it was his grandfather's legacy and the official position of his father, until the point that treachery issued forth from them and he was murdered as a martyr and passed away with nobility (may God's blessings be upon him). The scholars recognize this fact just as they recognize that he had foreknowledge about his martyrdom. Al-Ḥusayn sought the caliphate without any doubt and he did this because it was how he could revive the sunnah, uproot innovation, establish justice, spread equity, guarantee safe passage, enact the rights [of people], execute the penal codes, and implement religious edicts. This is the religious government that is the station of the Holy Prophet, and it was exactly this that his father Amīr al-Mu'minīn sought and fought over—when he secured helpers—against the people of Jamal, Siffin, and others."[32]

We also find these similar sentiments echoed in the writings of the forerunner of the Iranian Revolution, Sayyid Ruhollah Khomeini (d. 1409 AH), when he states:

باید همان طوری که سیدالشهدا -سلام الله علیه- تمام حیثیت خودش، جان خودش را و بچه‌هایش را، همه چیز را در صورتی که می‌دانست قضیه اینطور می‌شود، کسی که فرمایشات ایشان را از وقتی که از مدینه بیرون آمدند و به مکه آمدند و از مکه آمدند

32 *Qami'at Ahl al-Bāṭil bi-Daf' Shubuhāt al-Mujādil*, p. 96.

بیرون حرفهای ایشان را می‌شنود همه را، می‌بیند که ایشان متوجه بوده است که چه دارد می کند، این‌جور نبود که آمده است ببیند که، بلکه آمده بود حکومت هم می‌خواست بگیرد، اصلاً برای این معنا آمده بود و این یک فخری است و آقایی که خیال می کنند که حضرت سیدالشهدا برای حکومت نیامده، خیر؛ اینها برای حکومت آمدند، برای اینکه باید حکومت دستِ مثل سیدالشهدا باشد، مثل کسانی که شیعه سیدالشهدا هستند باشد؛ اصل قیام انبیا از اول تا آخر این بوده است

"What should be done is exactly what the Master of the Martyrs (a) did: he leveraged all his means, his life, his children, everything—all while knowing what would transpire. Anyone who takes heed of his statements—from the time that he left Medina towards Mecca, then departed Mecca [towards Kufa]—shall appreciate that he knew exactly what he was doing. It is not the case that he was uprising and then would see what [would happen]; rather he was uprising precisely to take over the government. This is exactly why he did it and this is a truly honorable thing. [As for] those who imagine that the Master of the Martyrs (a) did not rise for the government—this is not true. They rose for establishing a government. As such, it is imperative that the government be in the hands of people like the Master of the Martyrs (a), those who are his Shia. Indeed, this had been the core purpose of the mission of all the prophets, from the first to the last of them."[33]

In the political philosophy of Sayyid Khomeini, we see a few key crystallized elements emerging from his interpretation on the stance of Imam al-Ḥusayn (a):

a. Imam al-Ḥusayn's (a) movement was through-and-through a political one from its very inception and was aimed at fulfilling the obligation of establishing a just Islamic government.

33 *Ṣaḥīfeh-ye Imām Khumaynī*, v. 21, p. 3.

b. The foreknowledge of Imam al-Ḥusayn (a) regarding his martyrdom did not impede him from proceeding with his political vision. Rather, the Imam moved forward with full cognizance of his fate.

c. The expediencies of Islam cannot be overlooked or foregone; even if one should lose property or life, it is religiously mandatory to pursue them.

d. The uprising of Imam al-Ḥusayn (a) in establishing a government was in line with the goal of all prophets and should be seen as worthy of emulation for Muslims.

A common objection regarding the political theory is that Imam al-Ḥusayn (a) apparently proceeded with his mission despite knowing that it would actualize his own death. This is supported by a large body of narrations that note the Imam was informed previously of his martyrdom by the Holy Prophet (s). In turn, one of the key principles within Sayyid Khomeini's view is that the Imam moved forward with his political aspirations despite his full knowledge about his eventual martyrdom. This was because this was an incumbent religious duty that could not be relinquished, even in the case of personal risk.

On the opposite end of the spectrum, another Iranian scholar Shaykh Ni'mat-Allāh Ṣāliḥī Najafābādī (d. 1426 AH) controversially argued that Imam al-Ḥusayn (a) had no foreknowledge at all that he would be martyred, although his entire initiative was politically driven from its inception with the goal of establishing a religious government.[34] As he states in his own words:

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34 Najafābādī cites the writings of early theologians such as Sharīf al-Murtaḍā to claim precedent for his views; he has of course been severely critiqued for this by theological historians such as Ḥasan Anṣārī, as al-Murtaḍā's work is simply apologetic to substantiate infallibility to the non-Shia and employs an argument style of obligating the opponent (*ilzām al-khaṣm*).

سال ها بود وقتي مي شنيدم كه مي گفتند: «امام حسين عليه السلام به اين قصد حركت كرد كه خونش ريخته شود و خانواده اش اسير گردند» بر خود مي لرزيدم و ناراحت مي شدم و با خود مي گفتم: امامي كه بايد خون مقدّس و پر حرارتش در رگ هايش بجوشد و به اجتماع انساني حرارت بدهد، حركت بدهد، نور ببخشد، پشتوانه اسلام و مسلمانان باشد، چرا آن حضرت مي خواست اين خون پاك و پر حرارت، روي خاك بريزد و جهان اسلامي از چنين رهبر عظيمي محروم گردد

"For years I have been hearing it repeated, 'Imam al-Ḥusayn (a) mobilized intending that his blood should be shed and that his family should be taken as captives.' All the while, I had been uneasily shuddering and saying to myself, 'Could it be that an Imam, whose sacred blood flows within his veins with such fervor, and who exists to mobilize human society, afford them spiritual insight, and support Muslims and Islam—why would this leader want his pure and fervent blood to be shed, such that the Islamic world would be deprived of his superlative leadership?'"[35]

In gist, Najafābādī reconciles the aforementioned objection latent in the political theory in an entirely different way: by challenging the proposition that Imam al-Ḥusayn (a) knew of his demise. In turn, he entirely denied the narrations that stated Imam al-Ḥusayn's (a) death had been prophesied as post-hoc fabrications for the interests of affirming theological claims. Of course, the thesis of Najafābādī generated a massive outcry in Iran and resulted in over a dozen rebuttals, including from the likes of Shahīd Muṭahharī, Sayyid Muḥammad Ḥusayn Ṭabāṭabā'ī, and Shaykh Luṭfullāh Ṣāfī Gulpaygānī.[36]

35 *Shahīd-e Jāwīd*, p. 8.

36 In turn, the prolific Najafābādī wrote a counter-rebuttal of his critics, which he gathered in a book he titled *'Aṣā-ye Mūsā*, and accused them of religious extremism (*al-ghuluww*). For more details regarding the intellectual ideas of Najafābādī, we recommend advanced readers read Shaykh Ḥaidar Ḥobbollāh's discussion about him here: https://tinyurl.com/mcz48wf2.

G. The Resurrective Viewpoint

The second theory to rationalize Imam al-Ḥusayn's (a) stance, adopted by several Shia luminaries, holds that Imam al-Ḥusayn (a) sacrificed his life for the sake of Islam because this was the only means left to revive the deadened state of the Muslim ummah. This is evinced by the fact that a mere twenty years after the martyrdom of Imam ʿAlī (a), moral decadence had reared its ugly head: the Umayyad dynasty was intent on consolidating its hegemony and destroying Islam from its very core. Therefore, Imam al-Ḥusayn (a) saw his martyrdom as a necessary sacrifice to allow the ummah to awaken from their slumber and resurrect the public conscience. Of course, within a mere century of Karbala, the stronghold of the Umayyads—once regarded as completely impenetrable—had disintegrated in the wake of several revolts after Imam al-Ḥusayn's (a) martyrdom.

This theory is unique in that it seeks to reconcile the maximum number of historical texts regarding Imam al-Ḥusayn's (a) motives into a single overarching theory; however, it may be somewhat limited in its political implications from a jurisprudential standpoint, since it does not advocate for political establishment strictly being one of Imam al-Ḥusayn's (a) underlying goals. Instead, it affirms the legitimacy of sacrificing oneself and one's family for the greater public good.

Among the pioneering voices of this theory was Sayyid Muḥammad Bāqir al-Ṣadr (d. 1400 AH):

الحسين عليه السلام كان أعز الناس جاها وأمنعهم جانبا ومن أكثرهم مالا وأوسعهم حياة كل الدنيا كانت متوفرة للحسين وكل المسلمين كانوا يحوطون الحسين عليه السلام بكل تجليل وتقديس وتكريم لم يكن بحاجة إلى جاه وإلى مال وإلى تكريم لم يكن يعيش أي ظلم من بني أمية كان خلفاء بني أمية يجاملونه ويدارونه ويخشونه ويخافونه لكنه

بالرغم من هذا تحرك ولم يتحرك أولئك الذين التهبت السياط فوق ظهورهم تحرك لكي يحس أولئك الذين التهبت السياط فوق ظهورهم بأنهم لا بد أن يتحركوا وقد حاول الإمام الحسين واستطاع أن يشعر الأمة باستمرار أنه يتحرك وهو يعلم أنه مقتول يتحرك وهو يعلم أنه يستشهد لكي يجعل الأمة تعيش هذه الأسطورة أسطورة أن شخصا يتقدم نحو الموت وهو ثابت الجأش قوي القلب واضح اليقين في أن هذا الطريق يريده الله ورسوله إذن فالموت ليس خطرا إذا كان هذا الموت هو طريق إنقاذ المسلمين هو طريق تخليص الأمة من مؤامرة الجبابرة والطواغيت

"Al-Husayn (a) was the most revered of repute, the most fortified in stature, and one of the wealthiest and most magnanimous among his people. Indeed, the whole world was at his disposal; all Muslims treated him with the highest affection, esteem, and honor such that he had absolutely no need to seek additional repute, wealth, or status. He could have easily lived a life free of all oppression from the Umayyads, as their caliphs were wont to compliment, flatter, and pay reverence to him. However, despite all of this, he mobilized himself—all the while those whose very backs were inflamed from the oppressive whips of the Umayyads did not mobilize. He mobilized to teach them that they must muster the courage to mobilize. Imam al-Husayn (a) endeavored and was able to make the Muslim nation realize that he was mobilizing while he knew that he would be slaughtered—he was mobilizing with full recognition of his inevitable martyrdom. He did this so that the nation could live in the wake of this saga: that a man approached his death while firm in resolve, resolute of heart, unflinching in his conviction that this was the path that God and His Messenger desired for him. Indeed, death is not at all perilous when it is the means through which Muslims are liberated and through which the nation is unfettered from the clutches of tyrants and ingrates."[37]

37 This is a transcript excerpt from a speech given by al-Ṣadr, *"Mawqif al-Imām al-Ḥusayn min Ṭams Ma'ālim al-Naẓariyyah al-Islāmiyyah wa Tamyīʿ al-Ummah"*.

In this same light, Sayyid al-Ṣadr sought to explain the various actions of the Imams in his theory of "various roles but a singular purpose" (*tanawwu' al-adwār wa waḥdat al-hadaf*) for the Imams of Ahl al-Bayt. This theory suggests that the reason different members of the Ahl al-Bayt acted differently was strictly because of the exigencies of Islam in each of their respective eras, and not due to differences in their objectives.[38]

One of the students of Sayyid al-Khūʾī, Shaykh Muḥammad Jawād Mughniyyah (d. 1400 AH), similarly states:

و بقدر ما بلغ الحسين من الحق، ان صح التعبير بلغ يزيد من الباطل، و كما عبر الحسين باستشهاده عن مكانته من الحق فقد عبر يزيد بضراوته عن منزلته من الباطل. لقد بلغ الحنق و الغيظ بيزيد ان فعل بالحسين و أهله ما فعل، لا لشيء الا عداوة للحق، و هذا ما أراد الحسين ان يعلنه للملأ، و يخبر به الاجيال، فسأل يزيد قائلا: و يحكم أتطلبوني بقتيل منكم قتلته؟! أو بمال لكم استهلكته؟! أو بقصاص جراحة؟ أجل، انهم يطلبونه باكثر من ذلك، يطلبونه بما طلبه النمرود من ابراهيم الخليل. و بما طلبه فرعون من موسي الكليم، و بما طلبه ابو سفيان من محمد الحبيب، و ما طلبه معاوية من علي المرتضي، انهم يطلبون ان لا يوجد شي ء علي الكرة يقال له دين و ايمان و عدالة و انسانية، و يأبي الحسين الا الدين، لانه لا شي ء اعظم من الدين عند الحسين، انه اعظم من الارواح و من الانبياء و الاوصياء، فكم من نبي قدم نفسه فداء للدين؟! و كم من امام استشهد من أجل حمايته و صيانته؟! ان عظمة الدين لا يساويها شيء لانها من عظمة الله الذي ليس كمثله شيء.

"To the same extent that we can say that al-Ḥusayn had reached [the pinnacle] of truth, Yazīd had reached [the pinnacle] of falsehood. Just as al-Ḥusayn displayed through his martyrdom his position of truth, Yazīd

38 Sayyid Khamenei is another scholar who also has adopted and expanded this theory in his book, translated into English as "A 250 Year Old Person."

through his viciousness did the same with respect to falsehood. Jealousy and rancor was such in Yazīd that he did what he did to al-Ḥusayn and his family—for absolutely no reason except his hatred for truth. This is what al-Ḥusayn wanted to make clear to his society and for all posterity, and as such he asks Yazīd: 'Woe be to you, do you chase me in retribution for someone I killed among you? Or because of money of yours that I have devoured? Or to retaliate for a wound I inflicted?' Nay, rather they sought after him for something far graver: for the same reason that Nimrod sought after Abraham, and Pharaoh sought after Moses, Abū Sufyān sought after the beloved Prophet Muḥammad, and Mu'āwiyah sought after 'Alī al-Murtaḍā. They sought after him to ensure that there would be nothing on Earth called religion, faith, justice, or humanity. Meanwhile, al-Ḥusayn refused anything except religion because there is nothing greater than religion in the eyes of al-Ḥusayn. It is more dear to him than the angels, the prophets, and their vicegerents. For how many a prophet sacrificed himself as a ransom for the sake of religion?! How many an Imam was martyred due to his protection and steadfastness in safeguarding it?! Indeed, the stature of religion is such that nothing can be compared to it, because it stems from the stature of God, which is peerless."[39]

A famous Iranian intellectual, Dr Ali Shariati (1395 AH), was also an advocate for this theory, where he states:

شهادت حسینی کشته شدن مردی است که خود برای کشته شدن خویش قیام کرده است امام حسین علیه السلام از مقوله دیگری است; او نیامده است که دشمن را با زور شمشیر بشکند و خود پیروز شود، و بعد موفق نشده و یا در یک تصادف یا ترور توسط وحشی، کشته شده باشد . این طور نیست، او در حالی که می توانسته است در خانه اش بنشیند و زنده بماند، به پا خاسته و آگاهانه به استقبال مردن تافته و در آن لحظه، مرگ و نفی خویشتن را انتخاب کرده است...البته شهادت حسینی شرایط ویژه خود را می طلبد . وقتی ظلم، انحطاط و انحراف همه گیر می شود و

39 *Al-Ḥusayn wa Baṭalat Karbalā'*, pp. 17-18.

ارزشهای والای اسلامی مسخ می گردد و موعظه ها برگوش های سنگین کارگر نمی افتد; حسین با همه دانایی به عدم توانایی خود در پیروزی ظاهری بر دشمن، علنا به پیشواز مرگ می رود و با انتخاب شهادت، بزرگ ترین کاری را که می شد کرد، انجام می دهد

"The Ḥusaynī martyrdom is the martyrdom of a man who himself uprose to be martyred. Imam al-Ḥusayn is in a different world altogether; it was not the case that he rose to be victorious over his enemy through military might but failed. It was not the case that he was suddenly gruesomely betrayed and then killed. It is not like this—he was capable of sitting in his home and saving himself, but he stood up and moved towards death, choosing to negate his own life for a higher purpose. Of course, Ḥusaynī martyrdom has its own special conditions: when oppression, decadence, and deviance has become so pervasive, when Islam's values have been completely distorted, and when exhortation no longer avails. It was in this moment that with full cognizance about his own inability to achieve mundane victory over his enemies, al-Ḥusayn openly received death in choosing martyrdom—certainly he enacted the biggest sacrifice that was possible to make."[40]

Of note, Shariati's theory of Imam al-Ḥusayn's (a) uprising had a notable Marxist slant in that he envisioned the Imam as standing up to the Umayyad bourgeoisie of his era which had weaponized the trinity of gold, power, and fabrication (*zar-o-zūr-o-tazwīr*). His thesis therefore came under heavy fire from seminarians such as Shahīd Muṭahharī.

H. The Combinatorial Viewpoint

The subscribers to this theory believe that Imam al-Ḥusayn (a) had several underlying goals for his uprising; some believe that these were gradually changed during Imam al-Ḥusayn's (a) journey while others believe they were simultaneously at play from the very time he was still in Medina. One of the first pioneers of this combinatorial

40 *Ḥusayn Wārith-e Ādam*, pp. 222-223.

theory was Shahīd Murtaḍā Muṭahharī (d. 1399 AH), who proposed in his famous work, *Ḥamāseh-ye Ḥusaynī*, that there were three separate motives to Imam al-Ḥusayn's (a) uprising: 1. His refusal to give legitimacy to Yazīd's tyrannical government by giving him allegiance, and it was this factor which caused Imam al-Ḥusayn (a) to leave Medina. 2. Political aspirations which were fueled by the Kufans' invitation to the Imam to uprise, and these letters began to pour in about forty days after Imam al-Ḥusayn (a) had left Medina. 3. The prerogative of enjoining good and forbidding evil, which was the primary motive from the very beginning of his journey.[41] The previously mentioned Ṣāliḥī Najafābādī also came later to adopt a combinatorial viewpoint, although this was highly critiqued.[42]

This theory of Shahīd Muṭahharī has enjoyed wide endorsement by many intellectual historians, although they have differed in the manner in which they weigh these three motives; for instance, we find that Shaykh Mahdī Pīshwāī (d. 1442 AH) has stated:

بی شک عامل اجابت دعوت مردم کوفه ارزشی بسیار دارد ، زیرا حضرت در پاسخ مردمی که از اطاعت یزید سرپیچی نموده واو را برای رهبری خود دعوت کرده بودند آمادگی خود را اعلام کرد ، واگر اوضاع وشرایط مساعد بود ، اقدام به تشکیل حکومت اسلامی می نمود. اما خودداری حضرت از بیعت یزید ارزش بیش تری دارد ؛ زیرا امام بارها اعلام کرده بود که به هر قیمت ودر برابر هرگونه فشاری ، با یزید بیعت نخواهد کرد واین امر ، ایستادگی ومقاومت حضرت را در برابر زور وفشار نشان می دهد ، ولی بیش ترین ارزش را عامل سوم یعنی امر به معروف ونهی از منکر دارد ، زیرا در این جا

41 *Al-Malḥamah al-Ḥusayniyyah*, v. 2, pp. 227-256.

42 Per Najafābādī in his *Shahīd-e Jāwīd*, the three motives of Imam al-Ḥusayn (a) were, in chronological order: 1. Desiring to establish a political order; 2. An amicable truce; and 3. Martyrdom.

اقدام حضرت نه جنبه عکس العمل ودفاع داشت ونه جنبه همکاری وتعاون واجابت دعوت ، بلکه جنبه تهاجم واعتراض داشت. اگر دعوت مردم کوفه عامل اساسی بود ، وقتی که خبر رسید که زمینه کوفه منتفی شده است ، طبعاً امام دست از سخنان ومواضع خود بر می داشت واز ادامه سفر به سوی عراق صرف نظر می کرد ، امّا می بینیم داغ ترین خطبه های امام حسین علیه‌السلام وشورانگیزترین وپرهیجان ترین سخنان او بعد از ماجرای شهادت حضرت مسلم است. از این جا روشن می گردد که امام حسین علیه‌السلام تا چه اندازه روی عامل امر به معروف ونهی از منکر تکیه داشت وتا چه حد نسبت به حکومت فاسد یزید مهاجم ومعترض بود

"Without doubt, the factor of accepting the invitation of the Kufans had a significant impact, because in response to these individuals who refused to obey Yazīd and sought alternative leadership, Imam al-Husayn clearly identified himself as prepared to take up their offer. If the conditions had been favorable, he would certainly have aimed to establish an Islamic government. However, the factor of restraining himself from paying allegiance to Yazīd was even more powerful, because the Imam announced several times that no matter what pressures were exerted upon him he would not relent to Yazīd. This perseverance and spirit of resistance in al-Husayn despite pressure is palpable. However, the most significant factor was enjoining good and forbidding evil, because it was neither reactionary to the call for allegiance nor cooperative with the plea of the Kufans; rather, it reflects an offensive impetus. If the call of the Kufans had been the primary driving factor, then when the news reached that Kufa was no longer suitable, the Imam would have curbed his words and stances and would have ceased journeying towards Iraq. However, we instead see that the most fervent, mighty, and powerful sermons of the Imam were delivered only after the martyrdom of Muslim. From this, it becomes clear how motivated the Imam was in enjoining good and forbidding evil, and to what extent he was openly against and hostile towards the corrupt regime of Yazīd."43

43 *Sīreh-ye Pīshwāyān*, p. 183.

Meanwhile, another historian, ʿAlī al-Shāwī (b. 1387 AH) has adopted the viewpoint that the Imam's refusal to give allegiance to Yazīd and the prerogative of wanting to seek reform in the ummah were two simultaneous primary motives of the Imam that are inextricable from one another and should be weighed equally.[44]

There are also other scholars who have contended that Imam al-Ḥusayn's (a) goals were not simultaneous, but rather his strategy changed in tandem with the political milieu. Thus, we find that Shaykh Ḥaidar Ḥobbollāh (b. 1392 AH) states the following:

فالخروج من المدينة كان بهدف تجنّب تقديم البيعة ليزيد الذي رآه الحسين لا يملك أدنى مقوّمات الإمامة، ولهذا خرج الحسين بسرعةٍ من المدينة مع أهل بيته خلال ثلاثة أيام على أبعد تقدير بعد وصول خبر وفاة معاوية ومطالبة يزيد بأخذ البيعة من الوجوه والأعيان، في تلك اللحظة لم يكن هناك قرار حرب ولا ثورة ولا انتحار ولا مشروع سياسي محدّد غير رفض البيعة، كانت مكّة المكان الأنسب لدرس الخيارات الممكنة وكانت اللحظة مناسبة أيضاً، لحظة قرب موسم الحج. وبخروجه المريب من المدينة ورفضه البيعة تواترت الأخبار إلى حواضر العالم الإسلامي، وقرّر وجوه الكوفة التواصل معه ليصله سفراؤهم ورسائلهم وهو في مكّة ملقين عليه الحجّة وهو يتعامل مع منطق الأشياء الطبيعي، هنا ظهر الخيار الاستراتيجي الجديد، وهو التوجّه نحو الكوفة لقيادة حركة سياسية انفصاليّة إذا صحّ التعبير، وما عزّز هذا القرار كان تتالي الأخبار بخطّة الاغتيال التي تستهدف الحسين في الحرم، الأمر الذي اضطرّه للخروج باكراً قبيل الحجّ، متجهاً نحو الشمال منتظراً أخبار سفيره مسلم بن عقيل لتحسم الخيارات بشكل نهائي، وبعد مجيء الرسول بأخبار مطمئنة حسم خيار الاستقرار في الكوفة، واستمرّ السير، وفي أواسط الطريق أو أواخره

44 *Maʿa Rakb al-Ḥusayn*, v. 1, p. 366.

جاءت الأخبار المعاكسة، في لحظة لم توفّر للحسين خيارات جديدة مفتوحة، فلم تكن العودة إلى المدينة أو مكّة أو غيرهما بمجديةٍ، فقد وقع الخذلان، وفي مسيره نحو الشمال جاءه الحرّ الرياحي، وحال بينه وبين دخول الكوفة، فتحرّكت القافلة شمالاً دون هدف محدّد، وكان الاستقرار في كربلاء، ولما لم تتوفّر أي خيارات تفاوضيّة عدا خنوعه للذلّ وإقراره بخلافة غير شرعية، قرّر الخيار الاستراتيجي الثالث، وهو الشهادة، ليكون مشعلاً للرفض والإباء، وليكتب بدمه الزاكي معاني العزة والكرامة وقيم التضحية والتفاني في سبيل المبادئ العليا

"His [Imam al-Husayn's (a)] departing from Medina was with the goal of wanting to avoid giving allegiance to Yazīd, whom Imam al-Husayn saw as not bearing even the minimum requirements for leadership. Therefore, al-Husayn swiftly left Medina with his family within at most three days after the news of Mu'awiyah's demise had reached there and Yazīd had issued his demand for allegiance. At that point, he had made no decision to enact war, revolution, self-sacrifice, nor any specific political agenda except denial to give allegiance. Mecca was the most suitable place to study his possible options and it was also the right time given it aligned with the hajj season. The news of his fleeing Medina and his refusal to pledge allegiance had by then already reached far and wide across the Muslim world. Due to this, the chiefs of Kufa decided to reach out to him through their letters and ambassadors and cast their proposal to him for leadership. He therefore acted in accordance with the natural order of things and a new strategy then came to light: to make a push towards Kufa to spearhead a political splinter movement. What further buttressed this plan was the burgeoning news that there was a plan to assassinate al-Husayn while he was performing the pilgrimage. This forced him to leave early before completing the hajj and he moved to the north while he awaited the news of his ambassador Muslim ibn 'Aqīl before planning to consolidate his final decisions. When the message came that the conditions were favorable, he became intent on settling in Kufa and he continued to traverse towards it. However, towards the middle or end of his journey, contrary news about Kufa reached him while there was no remaining option open for him. It was futile to return to Mecca, Medina, or anywhere else as he had already been betrayed. While he continued

journeying to the north, Ḥurr al-Riyāḥī intercepted his entrance into Kufa and therefore his caravan proceeded north without any clear destination. The final stopping point came to be Karbala, and when it became clear that there was no potential to negotiate except his humiliation and his relenting to an illegitimate regime, he decided on his third strategy—which was martyrdom—to ignite the flame of revolt and refusal. As such, he penned with his holy blood the true meaning of honor, nobility, and self-sacrifice for a higher cause."[45]

Each of the rational viewpoints we clarified above lend themselves to a differing degree of jurisprudential discussion. In the political viewpoint, the question of establishing a religious government through potential armed revolt poses itself. As for the resurrective viewpoint, the jurisprudential questions revolve more around the religious legitimacy of sacrificing oneself for a higher cause. In the combinatorial viewpoint, both or neither of these questions may be asked depending on the specific iteration of this theory that one adopts. In the next chapter, we will begin to delve more specifically into the manner in which Imam al-Ḥusayn's (a) uprising has been envisioned and discussed by Shia scholars throughout history, specifically with reference to jurisprudence.

45 Further details can be found here: https://tinyurl.com/2th93pjc.

CHAPTER FOUR:
THE JURISPRUDENTIAL DISCUSSIONS SURROUNDING ʿĀSHŪRĀʾ[46]

As we discussed previously, from the perspective of intellectual history, the jurisprudential considerations of 'Āshūrā' did not feature prominently in early Shiism, especially given the pervading interpretation that his movement was motivated by non-rational factors.[47] The prerogative to rationalize Imam al-Ḥusayn's (a) movement primarily emerged from theological-polemical exigencies and thereby entered the domain of jurisprudence only secondarily. We will survey these early fifth-sixth century polemical discussions first, and then proceed to describe some of the jurisprudential implications that emerged out of this discussion.

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46 There is a book published on this topic in Arabic titled, *al-Mabānī al-Fiqhiyyah li-Thawrat al-Imām al-Ḥusayn* by Shaykh ʿAbd-Allāh Niʿmat al-Shabīb, which advanced readers are recommended to reference.

47 For more details on this viewpoint and the evidences presented to substantiate it, we would highly recommend this Arabic lecture series by Shaykh Muḥammad Obaidan: https://www.youtube.com/watch?v=AX7oTrfO6ok and https://www.youtube.com/watch?v=qI6giEflV0o.

A. The Theological Paradox of Proceeding towards One's Own Perdition

In the fourth and fifth centuries AH, there were three major Shia dynasties in the Muslim world: the Hamdanids in Syria, the Buyids in Iran, and the Fatimids in Egypt. Meanwhile, the Sunni Abbasids continued to control much of Iraq and the Hijaz. In this milieu, the environment was quite ripe for theological polemics and disputation, and the Shia scholars of the Baghdad school engaged in this quite prolifically, as is evinced by the highly apologetic literature of this era.[48] One of the main questions which emerged was regarding the following verse of the Qur'an:

وأنفقوا في سبيل الله ولا تلقوا بأيديكم إلى التهلكة وأحسنوا إن الله يحب المحسنين

"Spend in the way of God and do not throw [yourselves] into perdition with your own hands. And excel, for indeed God loves the excellers."[49]

In gist, the theological argument raised by critics in reference to 'Ashūrā' was that if Imam al-Ḥusayn (a) had foreknowledge of his martyrdom, then is it not the case that he proceeded to his own perdition? If so, then per this verse, this is a major sin which in turn shall negate his infallibility. In response to this, Shaykh al-Mufīd (d. 413 AH) writes:

قوله: إن الإمام يعلم ما يكون بإجماعنا، أن الأمر على خلاف ما قال. وما أجمعت الشيعة قط على هذا القول، وإنما إجماعهم ثابت

48 As an example, we previously translated an article on Iqraonline regarding the treatises of al-Mufīd in reference to Imam al-Mahdī (a), which employ a highly dialectical style of argumentation: https://iqraonline.net/occultation-and-mahdawiyyat-in-the-writings-of-shaykh-al-mufid-part-1/.

49 Qur'an, 2:195.

على أن الإمام يعلم الحكم في كل ما يكون، دون أن يكون عالما بأعيان ما يحدث ويكون، على التفصيل والتمييز. وهذا يسقط الأصل الذي بنى عليه الأسئلة بأجمعها. لسنا نمنع أن يعلم الإمام أعيان الحوادث تكون بإعلام الله تعالى له ذلك. فأما القول بأنه يعلم كل ما يكون، فلسنا نطلقه ولا نصوب قائله لدعواه فيه من غير حجة ولا بيان ولو جاء فيه أثر لم يلزم ما ظنه المعترضون، إذ كان لا يمتنع أن يتعبده الله بالصبر على الشهادة والاستلام للقتل، ليبلغه الله بذلك من علو الدرجة ما لا يبلغه إلا به...فأما علم الحسين عليه السلام بأن أهل الكوفة خاذلوه، فلسنا نقطع على ذلك إذ لا حجة عليه من عقل ولا سمع. ولو كان عالما بذلك لكان الجواب عنه ما قدمناه

"Regarding his [the interlocutor's] statement that we have consensus that the Imam knows what will happen: the situation is opposite of what he says. The Shia have never had consensus on this position. Their consensus is only that the Imam knows the religious edict for all that will happen, without necessarily knowing the particularities of what will occur and happen in full detail and nuance. This completely invalidates the premise upon which these questions are based. We do not discount that the Imam can know the particularities of events if God Almighty apprises him of it. As for the claim that he knows all that will be, then we do not approve of this view, because its assertor is claiming something without any proof or evidence. Even if a narration should substantiate this claim though, it will not affirm what the interlocutors assume. This is because it is plausible that the Imam may have sought to worship God by observing patience in the face of martyrdom and submitting himself to death. As such he became worthy of a status with God that would be impossible to achieve otherwise ... As for the foreknowledge of al-Husayn that the Kufans would betray him, then we do not express surety of this since there is no rational or narrational proof to substantiate it. Even if he did know though, our answer would be as aforementioned."[50]

50 *Al-Masā'il al-'Ukbariyyah*, pp. 70-71.

Another argument that was also raised was that Imam al-Ḥasan's (a) peace treaty and Imam al-Ḥusayn's (a) uprising seem to contradict one another. If both are considered infallible, then how can the differences in their behavior with the Umayyads be reconciled? In gist, Sharīf al-Murtaḍā (d. 436 AH) wrote in response that the Imam did not know that the Kufans would betray him and had traveled towards them specifically with the intent of establishing political order as their leader. However, when he realized that he had been betrayed and that Muslim ibn ʿAqīl had been killed, he sought to reroute from Kufa, but the relatives of Muslim demanded that he proceed forward to seek revenge; then Ḥurr met his caravan and stopped him from advancing. He tried to negotiate with ʿUmar ibn Saʿd by asking that he either be allowed to return from whence he came, be taken to Yazīd to put his hand in his hand, or be allowed to settle at the outskirts of Muslim territory.[51] However, Ibn Ziyād refused to accept the Imam's proposal and he then realized that they were intent on killing him even if he would surrender, therefore he chose honorable martyrdom over death in captivity:

فلما رأى (ع) إقدام القوم عليه وان الدين منبوذ وراء ظهورهم وعلم أنه إن دخل تحت حكم ابن زياد تعجل الذل وآل امره من بعد إلى القتل، التجأ إلى المحاربة والمدافعة بنفسه وأهله ومن صبر من شيعته، وكان بين

51 The narration from al-Ṭabarī that al-Murtaḍā uses here has been widely criticized by Shia scholars, as it is narrated from ʿUmar ibn Saʿd who had a vested interest in twisting the facts and claiming Imam al-Ḥusayn (a) sought to give allegiance to Yazīd. Some, like the Iranian intellectual Dr Ḥasan Anṣārī, have said that al-Murtaḍā was being concessionary here in his *Tanzīh al-Anbiyā'* for the sake of arguing with his Sunni interlocutors (*ilzām al-khaṣm*), as this narration is accepted by them. See here for more details on critique of this narration: https://www.alhodacenter.com/article/2510.

إحدى الحسنيين: إما الظفر فربما ظفر الضعيف القليل، أو الشهادة والميتة الكريمة

"When he (a) saw the people rushing in the offense against him, perceived that they had altogether divorced themselves from the religion, and knew that if he should surrender to Ibn Ziyād he would be humiliated and would be eventually killed regardless, he took resort in combat and defending himself, his family, and the perseverant ones among his followers. He was therefore between two praiseworthy achievements: either victory, or martyrdom and a noble death."[52]

After presenting this theory, al-Murtaḍā concludes:

الجواب قلنا قد علمنا أن الإمام متى غلب فى ظنه أنه يصل إلى حقه و القيام بما فوض إليه بضرب من الفعل وجب عليه ذلک و إن كان فيه ضرب من المشقة يتحملها تحملها و سيدنا أبو عبد الله ع لم يسر طالبا للكوفة إلا بعد توثق من القوم و عهود و عقود و بعد أن كاتبوه و إنما أردنا بذكر هذه الجملة أن أسباب الظفر بالأعداء كانت لائحة متوجهة و أن الاتفاق عكس الأمر و قلبه حتى تم فيه ما تم فكيف يقال إنه عليه السلام ألقى بيده إلى التهلكه... فأما الجمع بين فعله (ع) وفعل أخيه الحسن فواضح صحيح، لان أخاه سلم كفا للفتنة وخوفا على نفسه وأهله وشيعته، واحساسا بالغدر من أصحابه. وهذا لما قوي في ظنه النصرة ممن كاتبه وتوثق له، ورأى من أسباب قوة أنصار الحق وضعف أنصار الباطل ما وجب عليه الطلب والخروج. فلما انعكس ذلك وظهرت امارات الغدر فيه وسوء الاتفاق رام الرجوع والمكافة والتسليم كما فعل أخوه، فمنع من ذلك وحيل بينه وبينه، فالحالان متفقان

"[Therefore], in answer we say that when the Imam has a strong suspicion that he will achieve his aim and reach what was relegated to

52 *Talkhīṣ al-Shāfī*, v. 4, p. 186.

him through carrying out a given action, he is then obligated to do so even if it should carry a great deal of hardship. Our master Abā ʿAbd-Allāh did not alight towards Kufa until he verified from the people, took their oaths and pledges, and after they corresponded with him. We only mean by stating this that victory over the enemy was quite imminent and fortune so had it that the situation flipped thereafter so that what occurred, occurred. Therefore how can it be said that he threw himself into perdition? … As for reconciling his action with the action of his brother al-Ḥasan, then this is clear and sound because his brother surrendered in order to prevent dissension, out of fear for himself, his family, and his followers, and because he perceived the betrayal of his companions. As for al-Ḥusayn, he had a strong suspicion that he would be victorious given those who corresponded with him, as he perceived the people of truth were strong and the people of falsehood were weak—therefore it was mandatory for him to uprise. But when he saw the situation had flipped and saw the signs of treachery, he tried to turn back, cease fighting, and surrender as his brother had done. However, he was restricted from doing so and intercepted. Therefore, the conduct of the Imams in both situations is equivalent."[53]

In other words, it appears that al-Murtaḍā attempted to reconcile the differences in the behavior of the two Imams by proposing that the difference was that Imam al-Ḥasan (a) did not have enough supporters to pledge him assistance, while Imam al-Ḥusayn (a) apparently did and therefore he proceeded with his project to initiate political reform. He did not know he would be betrayed, but when he was, he tried to reconcile with the Umayyad forces just like Imam al-Ḥasan (a) had done. However, he realized that there was no way out but inevitable death and thus opted for martyrdom rather than a humiliating death in captivity. Thus, al-Murtaḍā resolved the issue of casting oneself into perdition by claiming that the Imam did not know beforehand of his martyrdom and proceeded towards Kufa believing that he would be victorious but was unwittingly betrayed. Of course, this specific analysis of al-Murtaḍā is highly controversial from the mainstream Shia viewpoint, however quite surprisingly it remained mostly unaddressed by

53 *Tanzīh al-Anbiyā'*, pp. 170-177.

Shia scholars for several centuries.[54] By this analysis, it seems that al-Murtaḍā was among the forerunners of the political viewpoint mentioned earlier, although some have questioned this given the dialectical and apologetic style of his works.[55]

Of course, the more traditional answer by Shia scholars is that even though the Imam knew through supernatural sources of his martyrdom, he was tasked by God to follow the apparent and deductive means of knowledge available to non-infallibles in his daily dealings.[56] Yet another answer clarified by al-Mufīd above and endorsed by other Shia scholars is that proceeding towards one's *jihād* and martyrdom does not fall under the purview of casting oneself into perdition in the first place, but rather this action is a religious means of proximity to God (*al-taklīf al-ta'abbudī*) that is not objectionable at all.[57]

B. The Question of *Hudnah* (Peace Treaty) vs *Jihād* (Holy War)

In fact, it was from the very aforementioned verse of the Qur'an that the initial jurisprudential discussion began. The discussion was framed around the question of when

54 In his *Talkhīṣ al-Shāfī*, Shaykh al-Ṭūsī reports he differs with al-Murtaḍā regarding his analysis but does not clarify how. It is also claimed that Ibn Ṭāwūs wrote his *al-Luhūf* as an implicit rebuttal of al-Murtaḍā. Al-Majlisī has some observations on this statement of al-Murtaḍā in his *Biḥār al-Anwār*, however he leaves out the more controversial issues and addresses only al-Murtaḍā's words regarding reconciling the actions of Imams al-Ḥasan (a) and al-Ḥusayn (a).

55 For instance, Shaykh Sardurūdī has stated that al-Murtaḍā has clarified elsewhere his acceptance of the narration that Imam 'Alī (a) knew that Ibn Muljam would be his killer, and this indicates he personally believed the Imams had knowledge of their death. Ḥasan Anṣārī has noted that al-Murtaḍā did not personally accept solitary reports at all, and thus only posited his explanation for the sake of argument against Sunni contentions.

56 *Aḍwā' 'alā Thawrat al-Ḥusayn*, p. 38.

57 This answer is elaborated further by Sayyid Ibn Ṭāwūs in his *al-Luhūf*, p. 20. We have written a separate article on this topic of the Imam's foreknowledge here and encourage readers to review for a more detailed discussion: https://iqraonline.net/the-foreknowledge-of-imam-husayn-as-regarding-his-death-was-it-suicide/.

and if it is appropriate to enact a truce with the enemy (*al-hudnah* or *al-muhādanah*).[58] This question has been extensively discussed in the Shia jurisprudential corpus under the chapter of *jihād* with reference to many verses of the Qur'an and established practices from the *sunnah*.[59]

In our extant literature, the first scholar to discuss Imam al-Ḥusayn (a) from a jurisprudential lens was Shaykh Abū ʿAlī al-Faḍl ibn Ḥasan al-Ṭabarsī (d. 548 AH), the author of the Shia *tafsīr* work *Majmaʿ al-Bayān*. In his *tafsīr* of Qur'an 2:195, he writes as follows:

وفي هذه الآية دلالة على تحريم الإقدام على ما يخاف منه على النفس، وعلى جواز ترك الأمر بالمعروف عند الخوف، لأن في ذلك إلقاء النفس إلى التهلكة. وفيها دلالة على جواز الصلح مع الكفار والبغاة، إذا خاف الإمام على نفسه، أو على المسلمين كما فعله رسول الله " صلى الله عليه وآله وسلم " عام الحديبية، وفعله أمير المؤمنين " عليه السلام " بصفين، وفعله الحسن " عليه السلام " مع معاوية من المصالحة لما تشتت أمره، وخاف على نفسه وشيعته. فإن عورضنا بأن الحسين " عليه السلام " قاتل وحده؟ فالجواب: إن فعله يحتمل

58 This is defined in the writings of Shahīd al-Awwal (d. 676 AH), as well as ʿAllāmah Ḥillī (d. 726 AH) as follows:

هي المعاقدة على ترك الحرب مدة معينة من غير عوض

"It is a mutual pact to cease war for a period of time without [imposing] any tribute."

59 The following verses are usually employed in these discussions: 8:61, 2:195, 2:190, 9:123, 9:4, 9:5, 9:7, 9:29, 8:59, and 47:35. In terms of the Prophetic *sunnah* and *sīrah* of the Ahl al-Bayt, the following examples of peace treaties or lack thereof are referenced in jurisprudential discussions: 1. The treaty of Ḥudaybiyyah; 2. The peace treaty made with the people of Najrān; 3. The peace treaty of Imam al-Ḥasan (a); 4. The negotiations of the Holy Prophet with Banū Ghaṭafān during the Battle of Aḥzāb; 5. The incidents of al-Rajīʿ and Biʾr Maʿūnah; and 6. Imam al-Ḥusayn's (a) refusal to relent to peace treaty and his eventual martyrdom in Karbala.

وجهين أحدهما: إنه ظن أنهم لا يقتلونه لمكانه من رسول الله " صلى الله عليه وآله وسلم " والآخر: إنه غلب على ظنه أنه لو ترك قتالهم قتله الملعون ابن زياد صبرا، كما فعل بابن عمه مسلم، فكان القتل مع عز النفس والجهاد، أهون عليه.

"In this verse there is an indication of the prohibition of proceeding towards that which one fears will harm them, and further that it is permissible to abstain from enjoining towards the good (amr bil-maʿrūf) when there is fear, because that is casting one's own self into perdition. In it is also an indication of the permissibility in enacting a truce with the disbelievers and transgressors when the Imam fears for his life or for the life of the Muslims, just as the Prophet (s) did in the year of Ḥudaybiyyah or how Imam ʿAlī (a) did in Ṣiffīn, and what Imam al-Ḥasan (a) did with Muʿāwiyah when things became chaotic, which made him fear for his life and his followers. If we are questioned regarding why it is that Imam al-Ḥusayn (a) was the only one who fought, then the response is: his decision has two possible explanations. Firstly, that he (a) thought they would not kill him due to his relationship with the Messenger of Allah; or secondly, he thought that even if he does not fight them, Ibn Ziyād the accursed would imprison and execute him regardless, just as he did with his cousin Muslim [ibn ʿAqīl]. Therefore, engaging in combat while safeguarding his honor was more facile for him."[60]

In gist, therefore, we find that al-Ṭabarsī endorses three points here:

1. Every action that bears the risk of loss of life is forbidden.
2. *Amr bil-maʿrūf* can be foregone when there is fear or potential loss of life since this would fall as an instantiation of casting oneself into perdition.
3. During facing the disbelievers or rebels, if the Imam has apprehension about losing his life or that of Muslims, it is permissible for him to instate a truce.

60 *Majmaʿ al-Bayān*, v. 2, p. 35.

According to these jurisprudential conclusions from the verse at hand, al-Ṭabarsī then seeks to explain why Imam al-Ḥusayn (a) did not engage in a peace treaty with the opponents. He mirrors Sharīf al-Murtaḍā's explanations that either Imam al-Ḥusayn (a) did not know of his eventual demise or he was cornered and chose martyrdom over death in captivity. It appears from this that al-Ṭabarsī believed a truce is incumbent, because otherwise there would be no need for him to propose explanations for why Imam al-Ḥusayn (a) did not establish one. As we alluded earlier, the former explanation is somewhat contentious within contemporary mainstream Shiism.[61]

In conclusion, it appears that al-Ṭabarsī interpreted the uprising of Imam al-Ḥusayn (a) as being in apparent contradiction with this verse and since he saw that the initiative of Imam al-Ḥusayn (a) in pursuing these steps was an instantiation of throwing oneself into perdition, he had no choice but to interpret it with these two possibilities to resolve the contradiction. Therefore, it appears that in the viewpoint of al-Ṭabarsī, we can posit the following: if in enjoining towards goodness, one is faced with the possibility of either dying in the state of humiliation in the hands of the enemy or resisting and dying an honorable

61 Although outside the scope of this chapter, there are many narrations that support that Imam al-Ḥusayn (a) foreknew of his martyrdom. For example, there is a narration from *Baṣā'ir al-Darajāt* as follows:

بصائر الدرجات: أيوب بن نوح، عن صفوان، عن مروان بن إسماعيل، عن حمزة ابن حمران، عن أبي عبد الله عليه السلام قال: ذكرنا خروج الحسين وتخلف ابن الحنفية عنه، قال: قال أبو عبد الله عليه السلام: يا حمزة إني سأحدثك في هذا الحديث ولا تسأل عنه بعد مجلسنا هذا، إن الحسين لما فصل متوجها دعا بقرطاس وكتب: بسم الله الرحمن الرحيم من الحسين بن علي إلى بني هاشم أما بعد فإنه من لحق بي منكم استشهد معي ومن تخلف لم يبلغ الفتح، والسلام

It is somewhat unclear then that the likes of al-Mufīd and al-Murtaḍā did not pay attention to such narrations. Some like Najafābādī have opined that this indicates they were later fabrications, whereas others believe that they did not reference them because they were engaging in dialectical apologetics and thus eschewed quoting references that were particular to the Shia alone.

martyrdom in the state of honor, the preference should go to the latter as Imam al-Ḥusayn (a) chose.

The next major Shia scholar to discuss Imam al-Ḥusayn's (a) uprising in the context of jurisprudence was ʿAllāmah Ḥillī (d. 726 AH). In his discussion about establishing a truce, ʿAllāmah Ḥillī states the following:

والهدنة ليست بواجبة على كلّ تقدير، سواء كان بالمسلمين قوّة أو ضعف، لكنّها جائزة، لقوله تعالى: وَ إِنْ جَنَحُوا لِلسَّلْمِ فَاجْنَحْ لَهَا، و للآيات المتقدّمة، بل المسلم يتخيّر في فعل ذلك برخصة ما تقدّم و بقوله تعالى: وَ لٰا تُلْقُوا بِأَيْدِيكُمْ إِلَى التَّهْلُكَةِ و إن شاء قاتل حتّى يلقى الله شهيدا؛ عملا بقوله تعالى: وَ قٰاتِلُوا فِي سَبِيلِ اللهِ الَّذِينَ يُقٰاتِلُونَكُمْ و بقوله تعالى: يٰا أَيُّهَا الَّذِينَ آمَنُوا قٰاتِلُوا الَّذِينَ يَلُونَكُمْ مِنَ الْكُفّٰارِ وَ لْيَجِدُوا فِيكُمْ غِلْظَةً و كذلك فعل سيّدنا الحسين عليه السلام، و النفر الذين وجّههم النبيّ صلّى الله عليه و آله إلى هذيل، و كانوا عشرة فقاتلوا مائة حتّى قتلوا و لم يفلت منهم أحد إلّا خبيب، فإنّه أسر و قتل بمكّة

"Establishing a truce is not obligatory by any means, regardless of whether Muslims are in a position of strength or weakness—however, it is permissible. This is because of God's words: 'If they should incline towards peace then incline towards it' [Qur'an, 8:61] as well as aforementioned verses. Rather, the Muslim is granted the choice in doing that given the allowance of the previous verses and because of God's stating: '… and do not cast yourself with your own hands into perdition' [Qur'an, 2:195]. But if he should wish, he can fight until he meets God as a martyr as in accordance with God's words: 'Fight in the way of God those who fight you' [Qur'an, 2:190] and 'O you who believe, fight those of the disbelievers that reside near you and let them find within you harshness' [Qur'an, 9:123]. This is exactly what our Master al-Ḥusayn (a) did as well as the group of individuals that the Prophet directed to Hudhayl: they were ten in number and fought 100, with none of them

slipping away except Khubayb, who was taken as captive and killed in Mecca."[62]

In gist, ʿAllāmah believed that a truce is always permissible, and the Muslim is completely free to either cease fighting and make a truce, or continue to do so until martyrdom.[63] Therefore, he believes that Imam al-Ḥusayn (a) made the conscious decision of choosing the path of martyrdom, although the path of truce and reconciliation was not barred from him, and if he had opted for this, he would not have been blameworthy. ʿAllāmah advances the same argument when he discusses the ten companions of the Prophet that were sent to the tribe of Hudhayl during the incident of al-Rajīʿ; this group stood firm in the face of 100 adversaries until all of them were martyred except for Khubayb ibn ʿAdī and Zayd ibn Dathīnah who were imprisoned as hostages, although this latter is not mentioned by ʿAllāmah.[64]

In the view of ʿAllāmah then, the movement of Imam al-Ḥusayn (a) was entirely volitional from a jurisprudential standpoint and there was no obligation for it. He believed that the fact that Imam al-Ḥusayn (a) still chose to fight despite knowing that he

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62 *Muntahā al-Maṭlab fī Taḥqīq al-Madhhab*, v. 2, p. 974.

63 It should be said that given the prerogative for enacting a truce or continuing the war lies in the hands of the Imam, as elucidated by the jurists; so why is it that ʿAllāmah Ḥillī phrases it as relegated to the Muslim? Perhaps the reason for this is that when the Imam does not demand either a *jihād* or truce, each individual is capable for themselves to decide their path of choice. Perhaps this is why Imam al-Ḥusayn (a) offered his companions a choice to either stay at his side, cancelling out their previous allegiance to him and letting them choose of their own volition. Since the Imam was not obligated to fight and was capable of salvaging himself through a truce, he allowed each of his followers to make the same choice for themselves, and of course some accepted and others rejected.

64 For more details about this incident in English, please see here: https://arqadhi.blogspot.com/2015/11/051-massacres-of-al-raji-bir-ma.html or in Persian see here *Tārīkh Zindagānī-ye Payāmbar*, by Muḥammad Ibrāhīmī Āyatī, pp. 352-357.

would be killed and that he was in the weaker position indicates that it is never obligatory to enact a truce with the enemy. Therefore, there is no indication that either of these conditions bear any weight in mandating reconciliation. Just as his brother Imam al-Ḥasan (a), Imam al-Ḥusayn (a) could have relented and chose peace, but he ardently desired to achieve the status of martyrdom, which is also permissible per the *sharī'ah*. Another great Shia jurist who appears to have expressed agreement with 'Allāmah on this point was the illustrious Zayn al-Dīn ibn 'Alī al-'Āmilī (d. 966 AH), known as Shahīd al-Thānī.[65]

Nonetheless, 'Allāmah soon came to have critics; therefore, we find that the Shia luminary 'Alī ibn Ḥusayn al-Karakī al-'Āmilī (d. 940 AH), referred to as Muḥaqqiq Karakī, had the following to state about 'Allāmah's claims:

وأما فعل الحسين صلوات الله عليه فإنه لا نعلم منه أن المصلحة كانت في المهادنة وتركها، ولعله عليه السلام علم أنه لو هادن يزيد عليه اللعنة لم يف له، أو أن أمر الحق يضعف كثيرا بحيث يلتبس على الناس، مع أن يزيد لعنه الله كان متهتكا في فعله، معلنا بمخالفة الدين، غير مداهن كأبيه لعنة الله عليهما، ومن هذا شأنه لا يمتنع أن يرى إمام الحق وجوب جهاده وإن علم أنه يستشهد، على أنه عليه السلام في الوقت الذي تصدى للحرب فيه لم يبق له طريق إلى المهادنة، فإن ابن زياد لعنه الله كان غليظا في أمرهم عليهم السلام، فربما فعل بهم ما هو فوق القتل أضعافا مضاعفة[66]

"As for the action of al-Ḥusayn (a), we cannot deduce from it whether there was any expediency in establishing a truce or not. Perhaps he (a) knew that if he makes a peace treaty with Yazīd (la), the latter would not fulfill it or that the cause of truth would become so weakened thereby that it would confuse the people. This is all while Yazīd was sacrilegious in his actions, openly flouting the sharī'ah, and not at all like his father who was wont to compromise, may God curse them both. Therefore, it is

65 *Masālik al-Afhām ilā Tanqīḥ Sharā'i' al-Islām*, v. 3, p. 82.
66 *Jāmi' al-Maqāṣid fī Sharḥ al-Qawā'id*, v. 3, pp. 466-467.

not farfetched that the Imam of the truth deemed it obligatory to engage in jihād against him, even though he knew he would be martyred. This is notwithstanding that at the time war became imminent, there was no option for him for establishing truce, since Ibn Ziyād was draconian in dealing with them. Indeed, [if they had submitted to Ibn Ziyād] perhaps he would have exacted upon them what is more grave than death by manifold."

In gist, Muḥaqqiq Karakī had the opinion that establishing a truce is obligatory in certain conditions where expedience (*al-maṣlaḥah*) demands it. However, he believed we cannot speak about Imam al-Ḥusayn's (a) situation given that his circumstances were unique, and we are unable to clarify where the expedience actually existed. Therefore, Karakī disagreed with ʿAllāmah Ḥillī's deductions that establishing a truce must not be obligatory just because Imam al-Ḥusayn (a) fought. Instead, he proposes other potential reasons for why Imam al-Ḥusayn (a) may have seen a truce as a dead-end.

The jurist Sayyid ʿAlī Ṭabāṭabāʾī (d. 1231 AH), known as Ṣāḥib al-Riyāḍ, also alluded to similar points as Karakī in his refutation of the viewpoint of ʿAllāmah Ḥillī. He states:

و اما فعل سيدنا الحسين(ع) فربما يمنع كون خلافه مصلحة و ان فعله كان جوازا لا وجوبا بل لمصلحة كانت فى فعله خاصة لاتركه. كيف لا و لا ريب ان فى شهادته احياء لدين الله قطعا لاعتراض الشيعة على اخيه الحسن فى صلحه مع معاوية، و لو صالح(ع) هوايضا لفسدت الشيعة بالكلية و لتقوى مذهب السنة و الجماعة واى مصلحة اعظم من هذا و اى مفسدة اعظم من خلافه كما لا يخفى[67]

"As for the action of our Master al-Ḥusayn (a), perhaps what prevented him [from establishing a truce] was that it went contrary to expediency, and because his action [jihād] was permissible but not obligatory. Rather, there was only expediency in his action [jihād] and not in his foregoing it.

67 *Riyāḍ al-Masāʾil fī Bayān al-Aḥkām bil-Dalāʾil*, v. 1, pp. 492-497.

How could this not be, for in his martyrdom there was indeed resurrection of God's religion, because the Shia had already raised objection against his brother al-Ḥasan for making truce with Muʿāwiyah. If Imam al-Ḥusayn (a) also did the same, the Shia creed would have become completely spoiled, and the faction of Ahl al-Sunnah would have been augmented. As is apparent, what expediency is more pressing than this and what evil is more dire to be averted than this?"

Shaykh Muḥammad Ḥasan Najafī (d. 1266 AH), known as Ṣāḥib al-Jawāhir, also echoed these reservations of Karakī and holds establishing a truce as obligatory, although he expounded further that he believes that Imam al-Ḥusayn (a) had a special responsibility and divine covenant mandating martyrdom, from which we cannot deduce anything regarding the jurisprudence of establishing a truce. He nonetheless concurs that perhaps Imam al-Ḥusayn (a) had no other option because they were adamant on killing him regardless. He then presents a more nuanced explanation by positing the difference between expediency (*maṣlaḥah*) and exigency (*ḍarūrah*) and implying that Imam al-Ḥusayn (a) proceeded with *jihād* due to exigency to preserve the religion of his grandfather.[68]

As we get into more contemporary times, we notice that this argument of Ṣāḥib al-Jawāhir—that Imam al-Ḥusayn's (a) uprising was unique and particular to him and incapable of being generalized—was critiqued. Therefore we find Sayyid Muḥammad Ḥusayn Faḍlallāh (d. 1432 AH) states the following:

وأما ما ذهب إليه صاحب الجواهر من كون قضية الإمام الحسين هي من الأسرار الربانية وأنها من التكاليف الخاصة للإمام فهذا ما لا نجد له معنى لأن فيه نوعا من التبسيط في فهم هذه القضية ومنطلقاتها فالإمام لم يكن ينطلق من خلفيات غائمة غير واضحة بل خضع في تحركه للعناوين العامة والحاكمة آنذاك ولحركة هذه العناوين في أرض

68 Due to the length of the excerpt, we have avoided citing the full passage here. For more details, see v. 21, pp. 295-296.

الواقع فالجهاد جهاد سواء تم بعملية استشهادية أو بقتال عادي ولا يؤثر القتل بهذه الطريقة أو بغيرها في عنوان الجهاد[69]

"As for what Ṣāḥib al-Jawāhir states regarding Imam al-Ḥusayn's issue being among divine secrets and among his specific duties as an Imam, we do not find any meaning to this statement of his. This is because this statement conveys a type of oversimplification in understanding Imam al-Ḥusayn's case and its underlying motivations. The Imam did not advance forward in his movement based on abstruse and unclear factors, but rather his movement was governed by general [legalistic] principles and how these principles interacted in real-time within that clime. Jihād is jihād regardless of whether it is by a martyrdom operation or regular fighting; there is no bearing of the method upon this general principle of jihād."

Furthermore, as we shall see in the next section, Sayyid Khomeini was one of the major opponents of this belief, that Imam al-Ḥusayn's (a) movement was clandestine and not amenable to extrapolation; instead, he proceeded from examining the movement of Imam al-Ḥusayn (a) based on the principle of enjoining good and forbidding evil.

C. The Discussion Surrounding Enjoining Good (*Amr bil-Maʿrūf*) and Forbidding Evil (*Nahy ʿan al-Munkar*) and the Question of Dissimulation (*al-Taqiyyah*)[70]

An overlapping issue within Shia jurisprudence in which the uprising of Imam al-Ḥusayn (a) has also been contextualized, especially in more contemporary jurisprudential discussions, is that of enjoining good and forbidding evil. In general, the classical opinion within Shia scholarship was that Imam al-Ḥusayn's movement should not be viewed in this context but rather under the heading of *jihād*, since there are two conditions mentioned in our

69 *Kitāb al-Jihād*, p. 355.

70 I am indebted for this portion to the exposition in this article: *Al-Khiṭāb al-Fiqhī lil-Thawrah al-Ḥusayniyyah* by al-Shaykh Saʿīd Mīrzā al-Nūrī (https://tinyurl.com/35dwmb5w).

hadiths for establishing *amr bil-ma'ruf/nahy 'an al-munkar* that were not present in 'Ashūrā': 1. That there should be no harm entailed to the enjoiner of good/forbidder of evil; and 2. That the enjoiner of good/forbidder of evil should be certain that carrying out this duty will result in actual change in the recipient. We will treat the first condition in more depth here, however for the sake of brevity we will not discuss the second one.[71]

We find that Sharīf al-Murtaḍā states as follows:

ثم اختلف الناس فقال قوم: إن الخوف على النفس في إنكار المنكر يزيل الحسن كما يزيل الوجوب، وقال آخرون: إنما يزيل الحسن مضاعفاً إلى الوجوب في الموضع الذي لا يكون في الصبر على القتل إعزازاً للدين، فأما إذا كان في الصبر على القتل إعزازاً للدين حسن الإنكار ولم يجب...ومن هذا الوجه يعلم قبح الصبر على القتل وإن كان فيه إعزاز للدين لأن القتل ظلماً مفسدة فلا يخرج من القبح لحصول إعزاز الدين فيه[72]

"People thereafter differed and some said: having fear for your life in forbidding evil causes both its commendability and incumbency to be negated; others said: this only negates its commendability and its incumbency when enduring the prospect of murder does not result in any glory for the cause of religion. However, when enduring the prospect of

71 Advanced readers interested in further discussion about this may read this Arabic article by Shaykh Safā' al-Dīn al-Khazrajī here: www.imamhussain.org/arabic/25035. In gist, this argument only presents itself if one posits that the Imam had foreknowledge of his demise. The arguments presented on this frontier are that this condition is arguable given the commandment towards *amr bil-ma'ūf* and *nahy 'an al-munkar* is categorical in its import and one must stand up specifically when being quiet will convey a sense of support of innovation in religion. Furthermore, if the Imam had foreknowledge, he knew that it would enact change in the psyche of the Muslim public for all posterity even if the direct audience turned a deaf ear. Therefore, this condition is met for his enjoining good and forbidding evil.

72 *Al-Dhakhīrah fī 'Ilm al-Kalām.*

murder shall bring about glory for religion, it is recommended to forbid evil although it is not obligatory... for this reason it is known that enduring murder is reprehensible, even if it leads to glory for the religion because wrongful murder is a vice and this is not obviated even if glory for the creed is achieved."

Of course, this particular view of al-Murtaḍā that it is prohibited to forbid evil when death may ensue explains why he believed that Imam al-Ḥusayn (a) did not foreknow of his death, because in his opinion this foreknowledge would have necessitated that the Imam made an error by still proceeding to forbid evil.

In the discussions of nearly all the jurists in the pre-modern period, we find that there was a strong reliance on the *uṣūlī* principles of *nafy al-ḥaraj* (rejecting difficulty in religion) and *lā ḍarar wa lā ḍirār* (no harm to oneself or others).

Therefore, one of the key conditions in enjoining good and forbidding evil was always that there should be no personal harm involved in doing so.[73] Therefore, we find Shahīd al-Awwal (d. 786 AH) states:

لو أدى الإنكار إلى قتل المنكر، حرم ارتكابه لما سلف. و جوّزه كثير من العامة، لقوله تعالى وَ كَأَيِّنْ مِنْ نَبِيٍّ قاتَلَ مَعَهُ رِبِّيُّونَ كَثِيرٌ مدحهم

73 For instance, one may review Ṣāḥib al-Jawāhir's justifications for defending this condition in enjoining good and forbidding evil while he does commentary on the following hadith:

وقول الباقر يكون في آخر الزمان قوم مراءون يتقرءون- إلى أن قال-: لا يوجبون أمرا بمعروف و لا نهيا عن منكر إلا إذا أمنوا الضرر، يطلبون لأنفسهم الرخص و المعاذير

محمول على أناس مخصوصين موصوفين بهذه الصفات، أو على إرادة فوات النفع من الضرر، بل في الوسائل أو على وجوب تحمل الضرر اليسير، أو على استحباب تحمل الضرر العظيم، و إن كان لا يخلو من نظر بل منع في الأخير ضرورة ثبوت الحرمة حينئذ كما صرح به الشهيدان و السيوري

بأنهم قتلوا بسبب الأمر بالمعروف و النهى عن المنكر. و هذا مسلم إذا كان على وجه الجهاد. قالوا: قتل يحيى بن زكريا عليهما السلام لنهيه عن تزويج الربيبة قلنا: وظيفة الأنبياء غير وظائفنا. قالوا: قال رسول الله صلى الله عليه و آله: (أفضل الجهاد كلمة حق عند سلطان جائر)، و فى هذا تعريض لنفسه بالقتل، و لم يفرق بين الكلمات أهى نصّ فى الأصول أو الفروع، من الكبائر أو الصغائر؟ قلنا: محمول على الإمام، أو نائبه، أو بإذنه، أو على من لا يظن القتل. قالوا: خرج مع ابن الأشعث جمع عظيم من التابعين فى قتال الحجاج، لإزالة ظلمه و ظلم الخليفة عبد الملك، و لم ينكر ذلك عليهم أحد من العلماء. قلنا: لم يكونوا كل الأمة. و لا علمنا أنهم ظنوا القتل، بل جوّزوا التأثير و رفع المنكر. أو جاز أن يكون خروجهم بإذن إمام واجب الطاعة، كخروج زيد بن على عليه السلام و غيره من بنى على عليه السلام

"If forbidding the evil should lead to the death of the forbidder, it is prohibited for him to do it as discussed. Many of the Sunnis have allowed it per the verse of God, 'How many a prophet had a God-devoted folk fight alongside him …' [Qur'an, 3:146], as God praises them for dying due to enjoining good and forbidding evil. This is accepted when it is explained as jihād.[74] *If they say, 'Yahyā son of Zakariyyā (a) was killed due to his prohibiting the marriage of one's stepdaughter,' then we respond that the duty of the prophets is different from our duties. If they say, 'the Prophet (s) has said: "The best jihād is saying the word of truth in the face of a tyrant king," and this well carries the risk of execution and is a general statement as well since the import of the exact word here is not clarified,' then we say we regard this as specific to the Imam, his representative, with his permission, or for someone who does not think he will be killed. If they say, 'A large group of Followers came out with Ibn Ash'ath to fight against al-Hajjāj to put an end to his and 'Abd al-Malik's oppression and no one refutes what they did among the scholars,' then we say that they were not the entirety of the ummah, and we do*

74 Notice here that Shahīd al-Awwal alludes to the fact that when one considers the question of death, there is no problem classifying this under the category of *jihād*. However, his contention is with placement under the heading of enjoining good/forbidding evil.

not know if they really thought they would be killed. Rather they sought to influence change and cease the forbidden. It is also possible that they uprose with the permission of the Imam who was necessary to obey, just the way that Zayd ibn ʿAlī (a) had uprose from among the Alids."[75]

In proposing this as a rule, many scholars do not even attempt to treat the stance of Imam al-Ḥusayn (a) in apparently going against this condition. Even in the modern period, we find that some scholars have affirmed that in the period of occultation there is no prerogative for doing *amr bil-maʿrūf* or *nahy ʿan al-munkar* on a societal or political level.[76]

In lamenting this state of affairs among early Shia jurists, Shahīd Muṭahharī writes:

بعضی از علمای اسلام، و خیلی متاسفم که باید بگویم بعضی از علمای بزرگ شیعه که از آنها چنین انتظاری نمی رفت، می گویند: مرز امر به معروف و نهی از منکر، بی ضرری است نه بی مفسده ای، ضرری به جان یا مال یا آبرویت نرسد، یعنی اگر پای ضرر به اینها در میان بود، امر به معروف و نهی از منکر را رها کن! آن، کوچکتر از این است که با احترام جان یا آبرو یا بدن برابری کند! ارزش امر به معروف و نهی از منکر را پایین می آورند

"Some of the scholars of Islam, and I am sorry to have to say that even some of the major luminaries of the Shia from whom one would never expect such a thing, have said that the limit of doing amr bil-maʿrūf and nahy ʿan al-munkar is that it should not carry harm, not that it should not carry any mafsadah (corruption). It should be that no harm to your life, wealth, or reputation should occur. That is, if harm is a possibility, then forego amr bil-maʿrūf and nahy ʿan al-munkar! This obligation is not important enough to stand in the face of preserving your life, dignity,

75 *Al-Qawāʿid wa al-Fawāʾid*, v. 2, p. 207.

76 For instance see Muḥammad Mahdī Shams al-Dīn in his *Fiqh al-ʿUnf al-Musallaḥ fī al-Islām*, pp. 80-81.

and self. They bring the value of enjoining the good and forbidding the evil this low."[77]

In this context, Sayyid Khomeini was one of the first to challenge this assumption on the basis of the principle of *ahwan al-dararayn* (the lesser of the two harms) where he writes:

لو كان المعروف والمنكر من الأمور التي يهتم بها الشارع الأقدس كحفظ نفوس قبيلة من المسلمين وهتك نواميسهم أو محو آثار الاسلام ومحو حجته بما يوجب ضلالة المسلمين أو إمحاء بعض شعائر الاسلام كبيت الله الحرام بحيث يمحى آثاره ومحله وأمثال ذلك لا بد من ملاحظة الأهمية، ولا يكون مطلق الضرر ولو النفسي أو الحرج موجبا لرفع التكليف فلو توقفت إقامة حجج الاسلام بما يرفع بها الضلالة على بذل النفس أو النفوس فالظاهر وجوبه فضلا عن الوقوع في ضرر أو حرج دونها[78]

"If good and evil are among the issues which the Holy Lawgiver [God] has placed a great emphasis upon, such as saving the lives of a group of Muslims, the violation of their sanctity, the destruction of the relics of Islam, and erasure of its proofs in a way that results in aberration of the Muslims, or destruction of the rites of Islam like the sacred House of God [the Ka'bah], etc., then one must consider the degree of importance. The fact that there is personal harm or severe hardship does not annul this duty. If the erecting of the proofs of Islam in a way that dispels errancy is contingent upon losing one's life or lives, then it is apparent that it should still be obligatory; this is even more so therefore when only severe hardship or harm is encountered for its sake."

This example set by Sayyid Khomeini was soon followed by other jurists, such as Shaykh Muḥammad Amīn Zayn al-Dīn (d. 1419 AH), Sayyid Muḥammad Ṣādiq al-Ṣadr (d. 1419 AH),

77 *Hamāseh-ye Ḥusaynī*, v. 1, p. 128.
78 *Taḥrīr al-Wasīlah*, v. 1, p. 473.

and Shaykh Hossein-Ali Montazeri (d. 1431 AH).[79] Today, nearly every contemporary religious source of emulation (*marja'*) has come to follow Sayyid Khomeini's example.[80] Of course, this re-envisioning of the discourse surrounding *amr bil-ma'rūf* and *nahy 'an al-munkar*, specifically with reference to Imam al-Husayn's (a) stand, was a major turning point in the jurisprudential discourse and led to the deeming of standing against oppression as one of the instantiations of enjoining good and forbidding evil. Therefore, Sayyid Khomeini writes:

امام مسلمین به ما آموخت که در حالی که ستمگر زمان به مسلمین، حکومت جابرانه می کند، در مقابل او اگر چه قوای شما ناهماهنگ باشد بپاخیزید و استنکار کنید. اگر کیان اسلام را در خطر دیدید، فداکاری کنید و خون نثار کنید

"The Imam of the Muslims [i.e., Imam al-Husayn (a)] taught us that when the tyrant of the time rules over Muslims tyrannically, even if your power is not consolidated you should stand up against him and voice your dissent. If you see the existence of Islam is in danger, sacrifice yourself and ransom your blood for its sake."[81]

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79 For references to their works clarifying their position, please see the article referenced at the start of this chapter.

80 For example, in one of his answers to religious inquires, Sayyid Sistani writes:

أن لا يخاف الآمر بالمعروف والناهي عن المنكر ترتّب ضرر عليه في نفسه أو عرضه أو ماله بالمقدار المعتدّ به، ولا يستلزم ذلك وقوعه في حرج شديد لا يتحمّل عادةً، إلاّ إذا أحرز كون فعل المعروف أو ترك المنكر بمثابة من الأهميّة عند الشارع المقدّس يهون دونه تحمّل الضرر والحرج وإذا كان في الأمر بالمعروف أو النهي عن المنكر خوف الإضرار ببعض المسلمين في نفسه أو عرضه أو ماله المعتدّ به سقط وجوبه. نعم، إذا كان المعروف والمنكر من الأمور المهمّة شرعاً فلا بدّ من الموازنة بين الجانبين من جهة درجة الاحتمال وأهميّة المحتمل، فربما لا يحكم بسقوط الوجوب.

81 *Ṣaḥīfeh-ye Imām*, v. 3, p. 225.

It was only through revising the jurisprudence via reconsidering the example of Imam al-Ḥusayn (a) that this paradigm shift became possible. Even though categorization of Imam al-Ḥusayn's (a) movement under the heading of *jihād* vs *amr bil-maʿrūf* may seem somewhat arbitrary, this had major repercussions in practice since *jihād* was often envisioned within Shia jurisprudence as an obligatory duty specifically contingent on the presence of an Imam.

A closely tied concept to the precept of enjoining good and forbidding evil is that of dissimulation (*al-taqiyyah*), under the auspices of which one is allowed to give allegiance to a corrupt government due to duress to hide one's true beliefs. As the luminary Shia jurist Shaykh Murtaḍā al-Anṣārī (d. 1281 AH) has stated:

الثاني مما يسوغ الولاية – الإكراه عليه بالتوعيد على تركها من الجائر بما يوجب ضررا بدنيا أو ماليا عليه

"The second matter which justifies accepting the governance of an unjust government is being forced to do so under the threat of harm, whether that be physical or financial."[82]

During the period of occultation, this clime of employing dissimulation in accepting illegitimate governments was widely accepted by most Shia jurists, and they referenced the dissimulation of the Imams after Imam al-Ḥusayn (a) to justify this practice. As such, they viewed the uprising of Imam al-Ḥusayn (a) as exceptional and having arisen only due to the existence of supporters. As ʿAllāmah Majlisī (d. 1110 AH) writes:

82 *Kitāb al-Makāsib*, v. 2 p. 85.

وفي بعض الأخبار أن ذلك أمر لشيعتنا بالتقية إلى زمن القائم عليه السلام كما قال الصادق عليه السلام: أما ترضون أن تقيموا الصلاة وتؤتوا الزكاة وتكفوا وتدخلوا الجنة

"In some narrations it is stated that this [verse 4:77] is a commandment to our Shias to stay firm upon dissimulation until the advent of the Twelfth Imam, as it is reported on the authority of al-Ṣādiq (a): 'Are you not pleased that you need only establish prayer, give alms, and refrain from fighting, and as such you are granted paradise?'"[83]

However, in the contemporary period, this notion that dissimulation must be applied in such a blanket fashion was also highly criticized; the grand jurist Sayyid al-Khūʾī (d. 1412 AH) writes:

إذا كانت المفسدة المترتبة على فعل التقيّة أشد وأعظم من المفسدة المترتبة على تركها ، أو كانت المصلحة في ترك التقيّة أعظم من المصلحة المترتبة على فعلها ، كما إذا علم بأنه إن عمل بالتقية ترتب عليه اضمحلال الحق واندراس الدين الحنيف وظهور الباطل وترويج الجبت والطاغوت ، وإذا ترك التقيّة ترتب عليه قتله فقط أو قتله مع جماعة آخرين ، ولا إشكال حينئذ في أن الواجب ترك العمل بالتقية وتوطين النفس للقتل ، لأن المفسدة الناشئة عن التقيّة أعظم وأشد من مفسدة قتله... ولعله من هنا أقدم الحسين (سلام الله وصلواته عليه) وأصحابه (رضوان الله عليهم) لقتال يزيد بن معاوية وعرضوا أنفسهم للشهادة وتركوا التقيّة عن يزيد

"When the harm predicated upon performing dissimulation is more intense than the harm predicated upon abandoning it, or when the benefit of abandoning dissimulation is greater than the benefit of performing it—such as when one knows that dissimulation shall lead to the disappearance of truth and religion and the advent and circulation of falsehood and

83 *Biḥār al-Anwār*, v. 68 p. 299.

tyranny, while abandoning it shall only lead to one's death with a limited number of others—in this circumstance, there is no doubt that the obligation is to abandon dissimulation and prepare oneself for death. This is because the damage caused by dissimulation is graver than the harm of dying … perhaps it is because of this that al-Ḥusayn (a) and his companions engaged in battle with Yazīd ibn Muʿāwiyah and subjected themselves to martyrdom, abandoning dissimulation with Yazīd."[84]

In line with this reservation of al-Khūʾī, Sayyid al-Khomeini documents yet another limitation in applying dissimulation where he states while commentating on the jurisprudential precept of *lā ḍarar* (no harm to oneself):

ومن هذا الباب ما إذا كان المتقى ممن له شأن وأهمية في نظر الخلق بحيث يكون ارتكابه لبعض المحرمات تقية أو تركه لبعض الواجبات مما يعد موهنا للمذهب

"From this same vantage point, there is reservation in applying this rule if the dissimulator is someone who has a status and renown, such that his committing certain prohibited acts or abandoning certain religious obligations out of dissimulation will weaken the creed."[85]

Of course, this topic is quite extensive, and we have abbreviated the discussion here; those interested in further discussion on this topic can reference the sources we have quoted.

D. The Question of the Legitimacy of Political Revolt and Establishing A Religious Government: The Scope of the Jurist

As we discussed, the obligation of Imam al-Ḥusayn's (a) uprising within the jurisprudential context was re-conceptualized as meeting the parameters of *amr bil-maʿrūf*

84 *Al-Tanqīḥ (Kitāb al-Ṭahārah)*, v. 6, p. 257.
85 *Al-Rasāʾil*, v. 2, p. 178.

and *nahy ʿan al-munkar* due to the dire threat to Islam that Yazīd and his reign had imposed and the exigency to preserve the *sharīʿah*. Although this may be extrapolated in principle, real world instantiations (*tashkhīṣ al-mawḍūʿ*) about when it is appropriate to follow the example of Imam al-Ḥusayn (a) are left to the expertise of the qualified jurisprudent. One of the questions that can be raised on this frontier is why is it that the majority of Shia scholars over the centuries did not believe that uprising against the tyrannical governments of their time was appropriate, despite the precedent of Imam al-Ḥusayn (a)? Besides what we stated earlier, that Imam al-Ḥusayn's (a) movement was seen by some jurists as a special and unique duty incapable of extrapolation, there are several other reasons for this:

1. The existence of a group of narrations that prohibit any uprising or formation of an Islamic government before the advent of Imam al-Mahdī (a). These narrations are of various imports between those that command towards dissimulation, those that deem any uprising before the Mahdī (a) futile, and those that prohibit uprising with any leader prior to the Twelfth Imam's advent. Of course, many of these narrations are weak and those which are not can be interpreted, but those with heavily traditionist inclinations nonetheless rely on them.[86]

2. The belief of many Shia jurists, including the likes of Shaykh Murtaḍā al-Anṣārī and Muḥaqqiq Nāʾīnī, that the authority of the jurist subsumes issuing religious edicts (*al-iftāʾ*) and passing legal judgement (*al-qaḍāʾ*), but falls short of establishing political authority for the jurist. Therefore, they did not believe it was the prerogative of the clerical authorities to establish a religious government, although they did not necessarily deem it prohibited.

3. There were Shia scholars who believed that the jurist does have authority to establish a religious government, such

86 For more details, there is a book called the Era of Perplexion (*ʿAṣr-e Ḥayrat*) by Mahdī Nāṣirī that surveys many of these narrations.

as Shaykh Ja'far Kāshif al-Ghiṭā', however this may be conditioned upon certain factors, namely that the religious authority has the power to do so and it is sought after by the believers.[87] As long as the jurists do not have these conditions met and do not believe they have the ability to establish a government, it is not obligatory on them to move forward with this task.

4. Due to the religious culture of precaution, there was fear about attempting to erect a government. Since the establishing of a political order is often predicated upon loss of life, violation of human dignity, and squandering of the money of Muslims, all things which are sacred in the *sharī'ah*, a group expressed religious reservations about proceeding with establishing a government. Therefore, as long as there was a possibility that the corruption from establishing a government would outweigh the expediency, they opted to remain devoted towards separation of the religious authority from the political sphere.

5. The overwhelming external pressure upon Shia scholars to maintain the dictates of dissimulation in their dealings with the governments of their time; due to the heavy persecution and political surveillance, it was not possible for them to execute any plans in establishing a religious government.[88]

Of course, with the oppression rampant during the Qajar and Pahlavi dynasties, the conditions became ripe for the jurists to reconsider the prerogative of establishing a religious government, and this reached its apex in the writings of Sayyid Khomeini and Shaykh Ṣāliḥī Najafābādī, whom we discussed earlier. It behooves us to quote one example

87 Within those who believe in the political authority of the jurist, there are those who believe it is granted directly by the Imam (*al-wilāyah al-intiṣābiyyah*) and those who believe it is established on the basis of popular endorsement by the believers (*al-wilāyah al-intikhābiyyah*).

88 For more details about the various viewpoints of Shia scholars on this frontier, please see this article: https://iqraonline.net/religious-coexistence-during-the-occultation/.

of Sayyid Khomeini's leveraging Imam al-Ḥusayn's (a) example on this point here:

وقتی که حضرت سیدالشهداء آمد مکه، و از مکه در آن حال بیرون رفت، یک حرکت سیاسی بزرگی بود، تمام حرکات حضرت، حرکات سیاسی بود، اسلامی. سیاسی، و این حرکت اسلامی. سیاسی بود که بنی امیه را از بین برد و اگر این حرکت نبود، اسلام پایمال شده بود.

"When Sayyid al-Shuhadā' came to Mecca and when he left it, it was all a grand political movement; all the maneuvers of Imam al-Ḥusayn (a) were Islamic-political and it was this Islamic-political movement that dismantled the Umayyads. If this movement had not taken place, Islam would have been destroyed."[89]

E. The *Jihād* of Imam: *Ibtidā'ī* (Offensive) or *Difā'ī* (Defensive)[90]

Of course, the role of *jihād* in Imam al-Ḥusayn's (a) uprising cannot be understated, even if we should propose that his major underlying motive had been enjoining good and forbidding evil as redefined by contemporary jurists. The fact that Imam al-Ḥusayn (a) and his companions are referred to as *shuhadā'* (martyrs) is testament to this fact. However, the question arises as to what type of *jihād* specifically the Imam had been carrying out. Within Islamic jurisprudence, there are traditionally two types of *jihād* that are proposed:

1. *Jihād Ibtidā'ī* (Offensive War): this type of war is predicated upon desiring to spread Islam and expand its influence. This is considered *wājib kifā'ī* (obligatory

89 *Sahīfeh-ye Imām*, v. 18, pp. 117-118.

90 I was given some of the information for this part by Sayyid Ali Imran. For further details regarding this issue, please see this set of Persian articles: https://fazellankarani.com/persian/news/22466/ and https://fazellankarani.com/persian/articles/22212/.

on a sufficient lot of powerful men), and women, children, as well as the old/sick are excluded from it. It can only be enacted in the presence of an infallible Imam and there are other conditions to it, including the combatants' receiving permission to fight from their parents.

2. *Jihād Difā'ī* (Defensive War): this is predicated upon defending Muslim lands from threats to the life/property of its constituents and is considered *wājib 'aynī* (obligatory on all who are duty-bound (*mukallaf*)), including women, the old, and the sick to the capacity they can participate. There is no permission required from an infallible Imam nor one's parents.

In light of this differentiation, perhaps most scholars will categorize Imam al-Ḥusayn (a) as a martyr who was killed defending himself in a case where the foundations of Islam were under attack; however, some others, such as Shaykh Muḥammad Jawād Fāḍil Lankarānī—the son of the deceased grand-jurist Ayatollah Fāḍil Lankarānī (d. 1428 AH)—have found this explanation problematic, particularly when considering the presence of children in such a battle and the fact that Imam al-Ḥusayn (a) did not seek to defend his life and property, but rather went towards Kufa despite knowing his fate. He has instead revisited the rulings on this matter altogether and has argued for a third category—not offensive, nor defensive—rather a *dhabbī* (preservatory) war. According to Shaykh Lankarānī, this war has around ten differences from offensive war as well as a few differences from defensive war. It is a war in which a person, his land, or government are not directly under attack, but rather they observe that the foundations of Islam are under attack and near annihilation. Seeing this, they revolt and uprise against this attack to save the foundations of Islam. Within this type of war, every single person—including children—are included and one must actively engage with the threat rather than simply seeking to secure one's property or life.[91] In modern

91 Of course, participation in *jihād* here does not mean combat per se, and may also subsume propagation of the message (*jihād al-*

times, Lankarānī believes that defending Palestinian rights and combating ISIS are instantiations of this type of *jihād*.

F. Why Did Imam al-Ḥusayn (a) Give Permission to His Companions to Depart on the Night of ʿĀshūrā'?[92]

As we discussed in the previous section, Imam al-Ḥusayn's (a) conflict on the Day of ʿĀshūrā' can be envisioned as either a defensive or preservatory war; in both cases, however, there would appear to be an absolute obligation on all (*wājib ʿaynī*) to participate. Therefore, the question arises as to how we can jurisprudentially justify the Imam allowing his companions to depart on the night of ʿĀshūrā', as mentioned in the *maqātil* literature.[93] The question that

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tabyīn) for those who cannot fight, as espoused by Sayyid Khamenei.

92 For more details regarding the discussion here, please see the article by Sayyid al-Ḥusayniyān mentioned in footnote 1.

93 There are two sermons that are quoted to substantiate this; one is quoted by Sayyid Ibn Ṭāwūs as follows:

أما بعد فإني لا أعلم أصحاب أصلح منكم ولا أهل بيت أبر وأفضل من أهل بيتي فجزاكم الله عني خيراً وهذا الليل قد غشيكم فاتخذوه جملاً وليأخذ كل رجل منكم برجل من أهل بيتي ثم تفرقوا في البلاد حتى يفرج الله وهؤلاء القوم فإنهم لا يريدون إلا غيري

"And thereafter: I do not know of any companions more rectified than you, nor any household which is more pious and better than mine. May God reward you with goodness on my behalf. This night has enveloped you so seize it to traverse, and let each man among you take a man from my household and then disperse in the land until God ushers deliverance. For these people are not seeking anyone except me."

The second sermon is quoted by Ibn Shahr Āshūb as follows:

وإني قد أذنت لكم فأطلقوا جميعاً في حل ليس عليكم مني ذمام هذا الليل قد غشيكم فاتخذوه جملا وليأخذ كل رجل بيد رجل من أهل بيتي وتفرقوا في سوادكم ومدائنكم فإن القوم إنما يطلبوني ولو قد أصابوني لهوا عن طلب غيري

"I have indeed given you permission so leave altogether, free of any onus from me. This night has enveloped you so seize it to traverse and let each man among you take the hand of a man from my household and disperse into your villages and cities. For these people only are seeking after me, and if they indeed reach me they will turn away from seeking anyone else."

arises here is that if it was incumbent for them to remain with Imam al-Ḥusayn (a), then why did he give them this allowance? And if they were to take up his recommendation and depart, would they have committed a sin?

Traditionally, Shia scholars have held that the allegiance of Imam al-Ḥusayn's (a) companions was obligatory and could not be circumvented; as such, they have taken the repeated exhortations of Imam al-Ḥusayn (a) to his companions to depart as purely ceremonial or figurative. Thus, we find the scholar al-Muḥaqqiq Muḥammad Ḥusayn al-Nā'īnī (d. 1355 AH) has stated:

وهذه البيعة وإن لم تكن قابلة للحل وليست كبيعة العشائر مع شيوخهم ورؤسائهم إلا أن الناس حيث كانوا قريب عهد بالجاهلية فعاملوهم (عليهم السلام) بما ارتكز في أذهانهم

"Therefore, this pact of allegiance, even though it was not possible to absolve and did not resemble the tribal allegiances with their leaders and elders [it was nonetheless cast as such]: since the public was still very close to the Age of Ignorance, Imam al-Ḥusayn (a) treated his companions on the basis of that with which they were familiar."[94]

In a similar vein, Shahīd Muṭahharī has proposed that the allegiance of the companions to Imam al-Ḥusayn (a) had two aspects: one directly related to the right of the Imam and the second related to the religious obligation. What Imam al-Ḥusayn (a) did in releasing his companions from remaining with him was only in relation to his personal right and not their religious obligation. Thus, the Imam wanted to simply test his companions and his allowance was not a serious proposition, but rather simply to purify their sincerity and show to all posterity that the rank of his companions was peerless. As he writes:

94 *Munyat al-Tālib*, p. 10.

البته تکلیف شرعی هم بود و امام حسین(ع) از گفتن آن نیز غفلت نکرد اما می‌خواست آن تکلیف شرعی را در نهایت آزادی و آگاهی انجام بدهند. خواست به آنها بگوید دشمن، شما را محصور نکرده، از ناحیه دشمن اجبار ندارید. اگر از تاریکی شب استفاده کنید و بروید، کسی مزاحمتان نمی‌شود. دوست هم شما را مجبور نمی‌کند. اگر فکر می‌کنید که مسئله بیعت برای شما تعهد و اجبار به وجود آورده است، بیعت را هم برداشتم. یعنی فقط انتخاب و آزادی. باید در نهایت آگاهی و آزادی و بدون اینکه کوچکترین احساس اجباری از ناحیه دشمن یا دوست بکنید، مرا انتخاب کنید

"Of course, the legal obligation existed and by his freeing them from his allegiance, Imam al-Ḥusayn (a) was not neglecting this aspect; however he wanted this legal obligation to be fulfilled at the highest pinnacle of freedom and self-awareness. He desired to tell his companions that the enemy has not besieged you and there is no pressure on you from them. If you were to use the cover of night to escape, none of them would seek you out. Similarly, there is no force from the friendly side of this conflict either; if you find that the matter of allegiance is creating hardship and difficulty for you, then I myself am annulling it. This is a matter of choice and freedom, and you ought to choose me without even the least bit of pressure from friend or foe."[95]

Meanwhile, other more contemporary scholars such as Mohammad Soroush Maḥallātī (b. 1961) have critiqued these views and concluded that there is no evidence that there was any obligation upon the companions to remain with Imam al-Ḥusayn (a). Rather, from the very beginning of Imam al-Ḥusayn's (a) journey as he departed from Mecca, he had made it clear that joining him was a choice.[96] Refuting his predecessors on this question, Maḥallātī writes:

95 *Hamāseh-ye Ḥusaynī*, p. 145.

96 In *Biḥār al-Anwār*, v. 44, p. 367, a sermon is recorded of Imam al-Ḥusayn (a) as he departs Mecca wherein he states:

بر حسب آنچه که من تفحص کردم هیچ تعبیری در این زمینه از امام حسین وجود ندارد که باید بمانید و کشته شوید. چنین تعبیری نیست. حضرت هم تکلیف را نفی کرد و هم تحمیل را نفی کرد هر دو را. البته در همان جا هم دو خط قرمز هست و امام حسین آن را بارها فرمودند. یک خط قرمز این است که شما حق ندارید و مجاز نیستید به سپاه دشمن ملحق شوید وبه آنها کمک کنید...دو اگر بمانید در روز عاشورا و مظلومیت و فریاد استغاثه مرا ببینید اینجا تکلیف پیدا میکنید و باید حمایت کنید اما تا آن استغاثه اتفاق نیافتده تکلیفی ندارید

"As per my investigation, there is no expression from Imam al-Ḥusayn (a) wherein he states to his companions that you all must remain and die with me. Such a statement cannot be found. Rather, the Imam has refuted both the religious responsibility and the requirement to defend him. Nonetheless, this concession was contingent on two red lines that the Imam repeated several times. The first was that you are not allowed to join the ranks of the enemy troops nor assist them … the second was that if you remain on these plains and hear my plea for assistance on the Day of ʿĀshūrā', then it shall become obligatory on you to help and defend me. However, until the point that has not happened, you are under no obligation."[97]

In light of the above, the question arises as to how one may reconcile this explicitly stated allowance from Imam al-Ḥusayn (a) for his companions to depart and withdraw from combat. There is a jurisprudential discussion on this issue among the jurists under the heading of retreat from combat (*al-farār min al-zaḥf*); although its application here may be arguable, if we argue that Imam al-Ḥusayn's (a) permission to his companions can be among its instantiations, perhaps we may be able to jurisprudentially reconcile this conundrum.

من كان باذلاً فِينَا مهجتَه، وموطِّناً على لِقَاء الله نفسه، فلْيَرْحَل مَعَنا، فإنِّي راحلٌ مُصبِحاً إن شاء الله

"Thus whoever seeks to devote his entirety for our sake, having prepared oneself for meeting God, then let him accompany us. For indeed I shall depart in the morning, God-willing."

97 *Faqāhat dar ʿĀshūrā'*, p. 38.

In general, of course, retreating from combat during *jihād* is not permitted as per the dictates of the verse of the Qur'an:

يَٰٓأَيُّهَا ٱلَّذِينَ ءَامَنُوٓاْ إِذَا لَقِيتُمُ ٱلَّذِينَ كَفَرُواْ زَحۡفٗا فَلَا تُوَلُّوهُمُ ٱلۡأَدۡبَارَ

"Believers, whenever you encounter a hostile force of unbelievers, do not turn your backs to them in flight." (Qur'an, 8:15)

In general, Imāmī jurists are unanimous that during *jihād*, if Muslims are outnumbered 2:1, it is necessary to fight and retreating from combat is prohibited. This is based on the verse of the Qur'an:

ٱلۡـَٰٔنَ خَفَّفَ ٱللَّهُ عَنكُمۡ وَعَلِمَ أَنَّ فِيكُمۡ ضَعۡفٗاۚ فَإِن يَكُن مِّنكُم مِّاْئَةٞ صَابِرَةٞ يَغۡلِبُواْ مِاْئَتَيۡنِۚ وَإِن يَكُن مِّنكُمۡ أَلۡفٞ يَغۡلِبُوٓاْ أَلۡفَيۡنِ بِإِذۡنِ ٱللَّهِۗ وَٱللَّهُ مَعَ ٱلصَّٰبِرِينَ

"For the time being, [however,] God has lightened your burden. for He knows that you are weak: and so, if there be one hundred of you who are patient in adversity, they should [be able to] overcome two hundred; and if there be one thousand of you, they should [be able to] overcome two thousand by God's leave: for God is with those who are patient in adversity." (Qur'an, 8:66)

On the condition that the Muslims are outnumbered by a ratio of more than 2:1, then the opinion of most Shia Imāmī jurists is that it is allowed to retreat from combat, as clearly stated by Shaykh al-Ṭūsī in his *al-Mabsūṭ* and others.[98] Of course, some

98 As such, one finds a chapter in *Wasā'il al-Shī'ah* titled:

بَابُ جَوَازِ فِرَارِ الْمُسْلِمِ مِنْ ثَلَاثَةٍ فِي الْحَرْبِ وَ تَحْرِيمِهِ مِنْ وَاحِدٍ أَوِ اثْنَيْنِ بِأَنْ يَكُونَ الْعَدُوُّ عَلَى الضِّعْفِ لَا أَزْيَدَ

"The Chapter on the Permissibility of a Muslim to Flee from Three in War and the Impermissibility of Doing So When Facing One or Two, Such That the Enemy is Double and Not More."

have said that it is still recommended to fight for the sake of seeking martyrdom, especially when the Muslim warrior has a suspicion that his camp may still be victorious due to their prowess. Thus we find Ṣāḥib al-Jawāhir states as follows:

القول بالاستحباب هو الأشبه بأصول المذهب وقواعده فإن الجهاد حسب الكتاب والسنة أمر مرغوب والله وعد المجاهدين بالنصر فأقل مراتبه هو الرجحان والاستحباب وسيد الشهداء (ع) وأصحابه في يوم عاشوراء كانوا عاملين بهذا الاستحباب

"The view that it is recommended (mustaḥabb) is closer to the principles and rules of the creed, since jihād according to the Qur'an and sunnah is among those things loved by God, and He has promised the believers victory. Thus at the minimum it is preferred and commendable, and Sayyid al-Shuhadā' and his comrades on the Day of 'Āshūrā' therefore acted on the basis of this recommendation (istiḥbāb)."[99]

Therefore, given that the Imam's forces were outnumbered at a ratio of approximately 1:1000 (~70-100 men vs. 70,000 men), the allowance for retreating from battle can be justified. Although this discussion can be expanded and made more complicated than this, we will suffice with this synopsis.[100]

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99 I have excerpted this citation from the same article from Sayyid al-Ḥusayniyān, quoting from *Jawāhir al-Kalām*.

100 One of the contentions that can be raised against this explanation is that many jurists believe that the rules of retreat from combat specifically apply to offensive wars rather than defensive ones, although some scholars have disputed this (see here: https://tinyurl.com/yc7uamb6). More detailed jurisprudential discussions on this point are beyond the scope of this chapter and can be found in higher level jurisprudential discussions.

CHAPTER FIVE:
THE VIOLATED SANCTITIES OF ʿĀSHŪRĀʾ AND THEIR JURISPRUDENTIAL SIGNIFICANCE

In the previous chapter, we surveyed some of the key discussions surrounding the jurisprudential implications of Imam al-Ḥusayn's (a) movement. As an extension of the previous chapter, we will seek to explore here the concept of sanctity (*al-ḥurmah*) in Islamic jurisprudence and its relevance to 'Āshūrā'. In this light, we will specifically aim to show how Imam al-Ḥusayn (a) strived to preserve the integrity of Islamic sanctities (*al-maḥārim*), while his enemies sacrilegiously sought to intentionally violate them.

In one of the ritual visitations (*al-ziyārāt*) for the martyrs of Karbala narrated by Imam al-Ṣādiq (a), we find that an imprecation is cast on those who murdered Imam al-Ḥusayn (a) in the following lines:

ولعن الله أمة استحلت منك المحارم وانتهكت فيك حرمة الاسلام

"And may God curse the nation that violated your sanctities and infringed through you upon the sanctitude of Islam."[101]

The word sanctitude (*al-ḥurmah*) or sanctities (*al-maḥārim*), as mentioned in these lines, has been defined by the lexicographer Fakhr al-Dīn al-Ṭurayḥī as follows:

هي جميع ما كلف الله به ولا يجوز انتهاكه، فمن خالف فقد انتهك الحرمة

"This denotes all that God has made inviolably obligatory; whoever opposes it has violated its sanctitude."[102]

In the Qur'an we find that some of these specific inviolable sanctities are mentioned quite explicitly:

جعل الله الكعبة البيت الحرام قياما للناس والشهر الحرام

"God has appointed the Ka'bah as the Inviolable House as a standard for mankind, as well as the Inviolable Months …"[103]

In gist, whatever God has divinely sanctioned to carry an unassailable sanctity of its own falls under this header. There is no doubt then that those who murdered Imam al-Husayn (a) flouted all religious sanctities in their heinous crime; from their killing the grandson of their very own Prophet (s), to their trampling and beheading his corpse, to their imprisoning and parading his womenfolk, they indeed transgressed every

101 Shaykh al-Mufīd's *al-Mazār*, v. 1, p. 124.
102 *Majma' al-Baḥrayn*, v. 6, p. 38.
103 Qur'an, 5:97.

bound of religious and human decency. Meanwhile, so long as he was alive, Imam al-Ḥusayn (a) endeavored his utmost to preserve the sanctities of Islam. As a demonstration of this, in this chapter we will explore three sanctities that carry special jurisprudential implications.

1. The *Ḥurmah* of Mecca

> After Imam al-Ḥusayn's (a) departure from the city of Medina on 28 Rajab 60 AH, the very first place to which he traveled was the city of Mecca, wherein he remained for a total of four months (3 Shaʿbān until 8 Dhū al-Ḥijjah 60 AH). During this time, he actively sought to recruit individuals to his movement, writing correspondences and delivering sermons in this regard which are well-documented in the books of history.[104]

One of the highly emphasized points in the Qur'an is that Mecca as a city and in particular the precincts of the Kaʿbah are inviolable refuges of safety, wherein one is not allowed to exact any form of retribution or punishment.[105] This has also been mentioned in a *ṣaḥīḥ* narration as follows:

عن الحلبي، عن أبي عبد الله (عليه السلام)....قال: إذا أحدث العبد في غير الحرم جناية ثم فر إلى الحرم لم يسع لاحد أن يأخذه في الحرم

"On the authority of al-Ḥalabī from Abū ʿAbd-Allāh that he said: 'When a servant of God has committed a crime outside of the sacred

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104 Contrary to popular belief, these four months were filled with many significant historical events. The historian Najm al-Dīn al-Ṭabasī has a book regarding this topic, *Maʿa al-Rakb al-Ḥusaynī: al-Imām al-Ḥusayn fī Makkah al-Mukarramah.*

105 See Qur'an, 28:57, 29:67, 3:97, 3:125, and 14:35, all of which make mention of the inviolability of this region. The Shia Qur'anic commentator ʿAllāmah Ṭabāṭabāʾī has mentioned in his commentary in regards to these verses that they refer to a legal prerogative to preserve the sanctity of this location from bloodshed.

precinct (al-ḥaram) and then flees to it, it is not allowable for anyone to seize him within the sacred precinct …"[106]

Therefore, one may posit that if Imam al-Ḥusayn (a) had chosen to remain in Mecca, he theoretically would have been able to evade the prospect of armed rebellion. Indeed, this is exactly what the likes of his brother Muḥammad ibn al-Ḥanafiyyah and his political rival ʿAbd-Allāh ibn Zubayr had exhorted him to do. After all, the inviolability of an infallible Imam is greater than that of the Kaʿbah; however, recognizing the threat of assassins and that Yazīd was a man of no morality, Imam al-Ḥusayn (a) expended every effort to avoid the chance of bloodshed within Mecca, even if it meant sacrificing his own personal safety. In response to Ibn Zubayr, Imam al-Ḥusayn (a) is reported to have said:

يا بن الزبير لان ادفن بشاطئ الفرات أحب إلى من أن ادفن بفناء الكعبة

"O Ibn Zubayr! Indeed, it is more beloved to me that I be buried at the bank of the Euphrates instead of the courtyard of the Kaʿbah!"[107]

We recognize by this how staunch Imam al-Ḥusayn (a) was in preserving the religious sanctity of the Sacred Mosque, while his Umayyad enemies were unabashedly willing to violate it to crush their political rivals. In stark contrast to Imam al-Ḥusayn (a), Ibn Zubayr had no qualms in sacrificing the sanctity of the Kaʿbah to save his own life, eventually leading to its besiegement and razing in 64 AH.

Another jurisprudential discussion which arises in this context pertains to the method of Imam al-Ḥusayn's (a) departure from Mecca. Some historians believe that he was originally in the

106 *Al-Kāfī*, v. 4, p. 226.
107 *Kāmil al-Ziyārāt*, p. 152.

state of consecration (*al-iḥrām*) with the intention of performing the hajj, although when he realized he was unable to do so due to the threat of assassination, he switched his intention to performing the non-compulsory lesser pilgrimage (*al-ʿumrah al-mufradah*). This view is attributed to several historians in *maqātil* literature, the most eminent of them being Shaykh al-Mufīd in his *Kitāb al-Irshād* where he states:

ولما أراد الحسين عليه السلام التوجه إلى العراق، طاف بالبيت وسعى بين الصفا والمروة، وأحل من إحرامه وجعلها عمرة، لأنه لم يتمكن من تمام الحج مخافة أن يقبض عليه بمكة فينفذ إلى يزيد بن معاوية

"When al-Ḥusayn (a) wanted to go towards Iraq, he circumambulated the House and then raced between Ṣafā and Marwah; he then came out of his iḥrām, having made it into an ʿumrah since he was not able to complete the hajj out of fear that he would be arrested in Mecca and taken to Yazīd ibn Muʿāwiyah."[108]

However, an important critique of this view is that in the case of fear or impediment (*al-iḥṣār*), the means of freeing oneself of the *iḥrām* for hajj is to sacrifice an animal, not to change one's intention to *ʿumrah*.[109] In light of this, Shia jurists in general have adopted the view that Imam al-Ḥusayn (a) never donned the *iḥrām* with the intention to perform hajj; rather he wore it to perform *al-ʿumrah al-mufradah* which he completed successfully and then left. As Sayyid al-Khūʾī has stated:

108 *Kitāb al-Irshād*, v. 2, p. 67.

109 This is noted astutely by Sharīf Bāqir al-Qurashī in his *Ḥayāt al-Imām al-Ḥusayn*, v. 3, p. 50.

لا ريب في أن المستفاد من الخبرين أن خروج الحسين(ع) يوم التروية كان على طبق القاعدة لا لأجل الاضطرار

"There is no doubt that what is derived from these two narrations is that al-Husayn's departure from Mecca on the Day of Tarwiyah [8 Dhū al-Ḥijjah] was in accordance with the rule and not because of duress ..."[110]

2. The *Ḥurmah* of the Sacred Month

Islamic law recognizes four inviolable months—Dhū al-Qa'dah, Dhū al-Ḥijjah, Muḥarram, and Rajab—during which initiating combat is prohibited.[111] As 'Āshūrā' falls on 10 Muḥarram, the gruesome martyrdom of Imam al-Ḥusayn (a) and his companions in this month represents another sanctitude egregiously violated by Yazīd and his compatriots. A narration regarding the gravity of this violation is narrated from Imam al-Riḍā (a) as follows:

إنَّ المحرَّم شهرٌ كان أهل الجاهلية يُحرّمون فيه القتال، فاستُحلَّتْ فيه دماؤُنا، وهُتكتْ فيه حُرمتنا، وسُبي فيه ذرارينا ونساؤنا، وأُضرمت النيرانُ في مضاربنا، وانتُهِبَ ما فيها من ثقلنا، ولَمْ تُرْعَ لرسول الله (ص) حرمةٌ في أمرنا

"Muḥarram is a month in which even the people of the pre-Islamic Period of Ignorance used to prohibit combat; but our blood was deemed lawful in it, our sanctity was violated in it, our offspring and women

110 *Kitāb al-Ḥajj*, v. 2, p. 237. This comment comes in the context of a discussion by al-Khūʾī regarding some contradictory narrations that suggest that performing *al-ʿumrah al-mufradah* during the sacred months of hajj is forbidden, narrations that he either reinterprets or dismisses based on weak chains of narration.

111 This is specifically alluded to in the Qur'an, 9:36. Some Sunni scholars have opined that the verses in the Qur'an prohibiting fighting in the sacred months have been abrogated, a viewpoint that has been thoroughly refuted by Sayyid al-Khūʾī in his chapter on abrogation in his *The Prolegomena to the Qurān* (*al-Bayān fī Tafsīr al-Qur'ān*).

were made captives in it, fire was ignited in our tents, and what was in them of our provision was plundered. And despite our relationship to the Messenger of God, sanctitude for us was not observed …"[112]

When we examine the history of Karbala, we find that Imam al-Ḥusayn (a) repeatedly refused to initiate the conflict with the army of ʿUmar ibn Saʿd. Regarding this insistence of the Imam, the *muḥaddith* al-Mīrzā al-Nūrī has recorded two instances in his hadith compendium *Mustadrak al-Wasāʾil* where Imam al-Ḥusayn (a) prohibited Zuhayr ibn Qayn and Muslim ibn ʿAwsajah from starting the battle with Ibn Saʿd's forces.[113] As much as possible, he also tried to engage in negotiations with the enemy and proposed to them his willingness to depart without engaging in armed conflict, but to no avail. Perhaps this reluctance of the Imam to initiate the conflict and his seeking a non-violent settlement emerged from precisely this desire to respect the sanctity of the holy month of Muḥarram. It was only after the enemy had begun to shower the Imam's camp with arrows that he issued his famous statement to his companions to engage in warfare:

قوموا رحمكم الله إلى الموت الذي لابد منه فان هذه السهام رسل القوم إليكم

"Stand up, may God have mercy upon you all, to confront that death from which there is no recourse. For these arrows are the messengers of it from these people to you."[114]

This is in line with the concession within Islamic jurisprudence to engage in war in the case that aggression issues forth from a group that insists upon dissension and conflict. As Sayyid al-Khūʾī has stated:

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112 *Al-Amālī* of al-Ṣadūq, book 1, chapter 27, hadith 2.
113 *Mustadrak al-Wasāʾil*, v. 11, p. 80.
114 *Biḥār al-Anwār*, v. 45, p. 12.

يجوز قتال الطائفة الباغية في الاشهر الحرم ، وهم الذين قاتلوا الطائفة الاخرى ولم يقبلوا الاصلاح وظلوا على بغيهم على تلك الطائفة وقتالهم ، فإن الآية الدالة على حرمة القتال في الاشهر الحرم تنصرف عن القتال المذكور حيث إنه لدفع البغي وليس من القتال الابتدائي كي يكون مشمولا للآيه

"It is permitted to fight a rebellious party in the inviolable months, for they are the ones who take the fight to the other party, refusing to reconcile and insisting on their rebellion and conflict. This is because the verse which indicates the prohibition of fighting in the sacred months does not subsume this type of engagement that is predicated upon warding off rebellion. It is therefore not the type of pre-emptive warfare that would be included in the purview of this verse."[115]

As we conclude this discussion, it becomes clear that while Imam al-Ḥusayn (a) expended every effort to avoid engaging in bloodshed in Muḥarram, the villains who stood against him bore no qualms in violating the sanctity of this holy month.

3. The *Ḥurmah* of Water Deprivation

A final sanctity violated in the Battle of Karbala that holds a special significance for mourners of the tragedy is that of access to water. In the Islamic corpus, the significance of quenching a living being's thirst, even if it be an animal, is well attested.[116] However, beginning on 7 Muḥarram, Imam al-Ḥusayn (a), his family, and his companions were

115 *Minhāj al-Ṣāliḥīn*, v. 1, p. 368.

116 For instance, consider this narration on the authority of Imam al-Ṣādiq (a):

أفضل الصدقة إبراد الكبد الحري، ومن سقى كبدا حرى من بهيمة أو غيرها أظله الله عز وجل يوم لا ظل إلا ظله

"The best of charity is cooling the thirsty heart; whoever quenches a thirsty heart be it a beast or any other being, God Almighty will shade him on the day there is no shade except His shade." (*Mīzān al-Ḥikmah*, v. 2, p. 1320).

barred from this right; as one of his companions, Yazīd ibn al-Ḥusayn al-Hamadānī (rh), is reported to have said:

يا معشر الناس إن الله عز وجل بعث محمدا بالحق بشيرا ونذيرا وداعيا إلى الله باذنه وسراجا منيرا، وهذا ماء الفرات تقع فيه خنازير السواد وكلابها، وقد حيل بينه وبين ابنه

"O people! God sent Muhammad (s) with the truth as a well-wisher and warner, a summoner to God by His permission, and a brilliant beacon. Now behold this water of the Euphrates: in which even the pigs and dogs of Iraq can bathe, all while it is prevented from reaching his grandson!"[117]

The reason why Imam al-Ḥusayn (a) was deprived of water was under the pretext that since the third caliph 'Uthmān was killed thirsty, al-Ḥusayn (a) and his men should be martyred in that state as vengeance:

ثم كتب ابن زياد إلى عمر بن سعد: اما بعد فحل بين الحسين وأصحابه وبين الماء فلا يذوقوا منه قطرة كما صنع بالتقي النقي عثمان أمير المؤمنين المظلوم قال: بعث عمر بن سعد عمرو بن الحجاج على خمسمائة فارس فنزلوا على الشريعة وحالوا بينه وبين الماء ثلاثة أيام إلى أن قتل

"Then Ibn Ziyād wrote to 'Umar ibn Sa'd: 'And thereafter, intercept al-Ḥusayn and his companions from access to the water such that they may not drink a drop of it, exactly as what was done to the righteous and impeccable 'Uthmān, the oppressed Prince of the Believers.' Thus, 'Umar ibn Sa'd sent 'Amr ibn al-Ḥajjāj with 500 horsemen to guard the waterway, and they prevented the access of al-Ḥusayn for three days until he was killed."[118]

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117 *Biḥār al-Anwār*, v. 44, p. 318.

118 *Manāqib Āl Abī Ṭālib*, v. 3, p. 247.

Of course, this justification was completely fabricated, as Imam al-Ḥusayn (a) had nothing to do with the death of ʿUthmān.[119] In contrast to this dastardly tactic, the Ahl al-Bayt never behaved with such impunity in warfare; indeed, when Imam al-Ḥusayn (a) had been maintaining control of the waterway just a few mere days before his deprivation, he had graciously quenched the thirst of more than a thousand men of the Kufan commander Ḥurr ibn Yazīd al-Riyāḥī (rh). Yet another example can be found in the conduct of Imam ʿAlī (a) in quenching the troops of Muʿāwiyah at the Battle of Ṣiflīn upon reclaiming access to water, even after the latter's army had just prior deprived him and his men of it.[120]

Quite shockingly, nonetheless, one finds that despite the illustrious examples from the Ahl al-Bayt in providing water to their enemies in their time of need, some Shia jurists have ruled that it is permissible to restrict access to water in war. As Ṣāḥib al-Jawāhir states:

ويجوز محاربة العدو بالحصار...وإرسال الماء لينصرفوا به ومنعه عليهم ليموتوا عطشا (وكلما يرجى به الفتح) بلا خلاف أجده فيه

"And it is allowed to combat the enemy with besiegement … and sending water upon them [to flood them], and to restrict them from water such that they die of thirst. All by which is hoped to secure victory is permissible, and I find no divergence among our scholars about this."[121]

This religious edict is established on the basis of a narration found in *al-Kāfī* that suggests the permissibility of employing elements such as catapults, fire, and water in destroying the

119 In fact, ʿUthmān was besieged and deprived of water at the behest of Ṭalḥah ibn ʿUbayd-Allāh, and it was Imam ʿAlī (a) who appealed on his behalf that he be granted water and not be killed thirsty (see Shaykh al-Mufīd's *Kitāb al-Jamal*, p. 74).

120 *Tārīkh al-Umam wa al-Mulūk*, v. 4, p. 302.

121 *Jawāhir al-Kalām*, v. 21, p. 65.

enemy, even if it should result in the loss of innocent women and children.[122]

On the opposite end of the spectrum, another great jurist, Muḥammad Taqī al-Āmulī (d. 1391 AH), has stated the following regarding the question of whether one should provide water to thirsty enemy troops:

دليل وجوب قتله لا يدل على جواز قتله عطشا بل يمكن ان يقال بوجوب إشباعه من الجوع و إبراد كبده من العطش ما دام حيا لم يقتل

"The evidence regarding the necessity of killing him [the enemy] does not imply the permissibility of killing him thirsty. Rather, it is possible to surmise that one ought to feed him and quench his thirst so long as he is alive and has not yet been killed …"[123]

In the modern-day, many scholars have come out to support the view of al-Āmulī regarding the prohibition of killing enemy forces while in the state of thirst. They have also proposed that reform and revision in Islamic jurisprudence may be needed to better address the gap between Islamic ethics and law.[124] As we close this section, we hope the reader comes away from this work with a better appreciation of the diversity of intellectual viewpoints of Shia scholars, while also appreciating how richly the movement of Imam al-Ḥusayn (a) has informed and continues to inform Islamic jurisprudence.

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122 The probativity of this narration has been contested due to the weakness of its chain and its signification. Advanced readers may see here for more details: https://eshia.ir/feqh/archive/text/hoseiny/feqh/36/370617.

123 *Miṣbāḥ al-Hudā*, v. 7, p. 194.

124 For instance, see Mohammad Soroush Maḥallātī's *Faqāhat dar ʿAshūrā'*, pp. 65-68.